

1 CALIFORNIA HORSE RACING BOARD

2 1010 Hurley Way, Suite 300

3 Sacramento, California 95825

4
5
6
7
8 REGULAR MEETING

9 Thursday, January 19, 2006

10 10:00 A.M.

11 Arcadia City Hall

12 240 West Huntington Drive

13 Arcadia, California 91066

14
15
16
17
18 Reported by:

19 BLAKE WASHINGTON

1 A P P E A R A N C E S:

2 Board Members

3 John Andreini - Commissioner

4 Jerry Moss - Commissioner

5 William A. Bianco - Commissioner

6 Ingrid J. Fermin - Executive Director

7 Richard B. Shapiro - Commissioner

8 Marie G. Morretti - Commissioner

9 John Harris - Commissioner

10 Sherryl L. Granzella - Commissioner

11 Derry L. Knight - Deputy Attorney General

12

13 Also Present:

14 Jacqueline Wagner
15 CHRB Staff16 John Reagan
17 CPA
18 California Horse Racing Board
19 Senior Pari-Mutuel Examiner20 Jerry Jamgotchian
21 P.O. Box 1810
22 Manhattan Beach, CA 90267
23 (310) 408-580624 Jerry Mandel
25 CHHA26 Craig Fravel
27 Polytrack

28

29

30

1 A P P E A R A N C E S (Continued):

2 Daniel Q. Schiffer
3 Attorney at Law
4 43020 Blackdeer Loop
5 Suite 101
6 Temecula, California 92590
7 (951) 296-0911

8 Jack Liebau

9 Drew Couto

10 Ed Aldridge
11 Los Alamitos

12 Jeff Shrewd
13 UBet.com

14 Charles Champion
15 UBet.com

16 Scott Dury
17 Magna Entertainment

18 Sherwood Chillingworth

19 Rick Hamerly
20 Santa Anita

21 John Hindman
22 TVG

23 Tony Alamoto
24 TVG

25

26

27

28

29

30

31

1 ARCADIA, CALIFORNIA, THURSDAY, JANUARY 19, 2006

2 10:00 A.M.

3 -o0o-

4 MS. FERMIN: Hello, I am Ingrid Fermin. We
5 are here for the regular meeting of the California
6 Horse Racing Board, which is being held on Thursday,
7 January 19, 2006, commencing at 10:00 a.m., at the
8 Arcadia City Hall, 240 West Huntington Drive,
9 Arcadia, California. The meeting will open at
10 10:00 a.m., then the Board will adjourn into
11 Executive Session with the regular meeting commencing
12 at approximately 10:30 a.m.

13 (Half-hour Executive Session held.)

14 MS. FERMIN: We will reopen the meeting at
15 the time, but before we go on, I would just like to
16 ask everyone to please state your name and the
17 organization that you represent for the court
18 reporter. Thank you.

19 MR. SHAPIRO: I would like to welcome
20 everybody to the January meeting of the California
21 Horse Racing Board, and we have a long agenda; but
22 before we get started, I would like to make a few
23 remarks.

24 First and most importantly, I would like to
25 thank John Harris. John has led this board for the

1 past few years and has been a commissioner for many
2 years before then.

3 When I first came on the Board a year ago,
4 John was the first person who called me and welcomed
5 me to the Board, and since then besides forming a
6 friendship with him, I found him to be the most
7 untiring person that is dedicated to the overall
8 welfare of the horse racing business in California.

9 I think it is rare when you find somebody
10 that is of the stature of John Harris who will devote
11 as much time and energy as he does to the general
12 welfare of this industry. And it is an honor both to
13 follow him as chairman on this Board, but I think it
14 is an honor for the entire industry -- to sing his
15 rendition of his song, "Happy Trails to You," because
16 thankfully John has continued to serve on the Board,
17 I think the industry deserves to thank John. John
18 deserves our thanks. So, John, thank you.

19 MR. HARRIS: Thank you, Mr. Chairman.

20 MR. SHAPIRO: I would also like to make a
21 couple of comments moving forward in terms of my
22 being chairman. Over the last year what we have seen
23 is an industry influx and lots of challenges. We see
24 less horses, less owners, and we see less fans, and
25 some of our tracks in jeopardy.

1 In my role, I hope to try to bring unity to
2 this industry and try to bring everybody together as
3 much as possible. And in trying, that we can all
4 look at the CHRB being not just as a regulatory
5 agency, but an agency that is here to help and
6 promote this industry so that we can have a firm and
7 good future.

8 I have also heard periodically that people
9 have said oh, he, meaning me, is aligned with one
10 interest or another. And I wanted to address that,
11 because frankly most of us that sit up here are the
12 only people in this entire room that have no
13 financial interest in what happens.

14 I do not have a financial stake in which
15 racing association or organization succeeds. This is
16 done out of our pure passion and desires to see a
17 score thrive and succeed.

18 So, I want to make sure that everyone
19 realizes that as we sit here truly unbiased, our
20 desire is to see this industry succeed. And I will
21 make myself available at all times at any segment of
22 the industry so long as those people coming forward
23 are looking for the overall benefit of this industry,
24 not just of the specific interest.

25 So, I do hope that everyone will work

1 cooperatively over the next year, and I think that
2 everyone needs to be held accountable to protect the
3 integrity of our game, and that includes the CHRB,
4 staff, and officials.

5 So, having said that, I hope I can do some
6 amount of justice as John did as chairman, and we can
7 move forward and have a successful 2006.

8 The first order of business is to approve
9 the minutes from the meeting of December 1st, which
10 are in the packets. Does anybody have any comments
11 on the Board to those minutes and corrections?

12 MR. HARRIS: I think there was one. On the
13 discussion we had about the -- I think the "No" votes
14 were from me and it shows here --

15 MR. SHAPIRO: Okay. We will make that
16 change as noted. Are there any other changes?

17 MS. WAGNER: Commissioner?

18 MR. SHAPIRO: Yes.

19 MS. WAGNER: Just so I get the -- could you
20 tell me where you are reading at?

21 MR. HARRIS: Yeah, it is on page --

22 MR. SHAPIRO: It is on page 6.

23 MS. WAGNER: Page 6?

24 MR. SHAPIRO: Page 6, right. Just above
25 the jockey --

1 Are there any other corrections, additions,
2 changes?

3 There being none, do I have a motion to
4 approve the amendments?

5 MS. MORRETTI: (No audible response.)

6 MR. SHAPIRO: Second?

7 MS. GRANZELLA: I.

8 MR. SHAPIRO: All those in favor?

9 MR. ANDREINI: I.

10 MR. MOSS: I.

11 MR. BIANCO: I.

12 MS. FERMIN: I.

13 MS. MORRETTI: I

14 MR. HARRIS: I.

15 MS. GRANZELLA: I.

16 MR. SHAPIRO: The motion is approved.

17 The next agenda item is the Medication

18 Committee. Commissioner Bianco, would you like to
19 report on the Medication Committee?

20 MR. BIANCO: We had a meeting this morning,
21 and we put on hold for about a 30- or 60-day period
22 the approval of a rough draft on new regulations. We
23 will try to have some meeting over the next month
24 with the interested parties to get some clarification
25 and finalization of what has been proposed on

1 medication items.

2 With that, there was no further business.

3 So, we have a meeting that will be scheduled in the
4 next week, I would assume, for all the interested
5 parties. Thank you.

6 MR. SHAPIRO: Thank you. Commissioner
7 Harris and I both attended that meeting, and I
8 believe what we are going to try to do is have a
9 series of meetings so that all segments of the
10 industry, all breeds will be able to give input into
11 the proposed RMTC guidelines, uniform rules, and
12 penalties.

13 And it is a essential that we ask everybody
14 who is a participant in the industry to get to the
15 members including the vets, the trainers, the owners,
16 so that everybody has notice of this meeting and can
17 weigh in on that. So, I think it is an important
18 meeting. So, thank you. Given that item, I believe
19 that we will omit item No. 3 from the agenda.

20 Moving to item No. 4, discussion and action
21 by the Board on the proposed addition of Rule 1920.1,
22 Heightened Surveillance.

23 MS. WAGNER: Jacqueline Wagner, CHRB Staff,
24 this proposal Rule 1920.1 was originally proposed as
25 an emergency regulation at the recommendation of the

1 Ad Hoc Committee.

2 At that time the Ad Hoc Committee had
3 concluded that abnormal changes in some horse's
4 winning patterns, unusually high winning percentages,
5 and routine drug tests results -- prohibitive levels
6 were resulting in at least the perception that some
7 horses were receiving medication that they should not
8 be receiving.

9 And these horses are testing were not
10 testing positive in the post-race and hearing tests.
11 In response, 1920.1 was proposed as an emergency
12 regulation. Unfortunately, the OAL disapproved that
13 proposal as an emergency test. And in response, we
14 have revised the regulation to address the concerns
15 that the OAL raised.

16 The rule provides that any horse, stable,
17 or trainer that is on the premises as defined by the
18 Board's rules may be subject to heightened
19 surveillance during period of ten days immediately
20 preceding and during any race meeting if such horse,
21 stable, or trainer has certain medication violations
22 within a specific time.

23 The rule also specifies the criteria that
24 the Board will look at -- the specific criteria that
25 the Board will look at to place a horse under

1 surveillance. That rule is included in the packet
2 for review, and staff would recommend that the Board
3 direct us to go ahead and initiate the 45-day comment
4 period.

5 If I may, in that recommendation I would
6 also like to bring to the Board's attention that
7 under A subsection 1, we could make reference to the
8 criteria that a horse, or stable, or trainer
9 receiving in excess of three medication violations
10 warrant a category C or D penalty within the
11 preceding 36 months, and subsequent to that Section 2
12 also references the category A or B penalty within
13 the preceding 12 months.

14 Referring to the previous item that we just
15 discussed and the fact that that item is indeed on
16 hold, we may be able to take into consideration going
17 forward with this at this particular time.

18 MR. SHAPIRO: Thank you.

19 MR. HARRIS: One comment I had. I was not
20 clear. It seemed to me that anyone on the back
21 stretch should be subject to heightened surveillance
22 if -- I certainly hate to say that to be in the
23 heightened surveillance category, you have to meet
24 one of these criteria.

25 It may well be that there is someone who is

1 felt needed heightened surveillance for whatever
2 reason, I would hate to say that we did not have a
3 that latitude. It may be that the rational person
4 would say these folks would be prime candidates, but
5 I hate to see it limited where if we decided to do
6 heightened surveillance on somebody who did not meet
7 these categories, that would be in violation of
8 something.

9 MR. SHAPIRO: I agree with you. When I saw
10 this, and I saw under A the five items that were
11 listed, my first question was, where did these come
12 from. Who wrote these? And I had questions and
13 concerns about the way that we were doing this. Who
14 wrote these?

15 MS. FERMIN: Those came out of the Ad Hoc
16 security meeting when it was first discussed at
17 heighten surveillance.

18 MR. SHAPIRO: Well, my understanding is
19 that we went in under an urgency basis to try and get
20 approval to have heightened surveillance, and we were
21 turned down by OAL?

22 MS. FERMIN: As an emergency.

23 MR. HARRIS: Just as an emergency.

24 MS. FERMIN: That was just as an emergency.

25 MR. SHAPIRO: Right.

1 MS. FERMIN: The concept was not turned
2 down.

3 MR. SHAPIRO: Correct. And my view is I am
4 not really comfortable with the requirements that we
5 have to meet here. I think that John is correct. If
6 for some reason we want to have heightened
7 surveillance anywhere within the enclosure because of
8 some suspicious activity or concern, I'm concerned
9 that we are being limited by these rules here.

10 MS. FERMIN: I think maybe Derry has some
11 input here. I think we have that right now.

12 MR. HARRIS: I don't see if we have the
13 right, why are we doing it this way?

14 MR. KNIGHT: Yeah, I know that came up
15 initially because there was concern because you are
16 already doing this in some instances. But I do think
17 that that is a legitimate concern.

18 I think we ought to play around with the
19 language a little bit to make sure -- the problem you
20 have is once you get something this specific
21 downstream there is going to be arguments made with
22 some basis that -- this is the only basis you have to
23 do that. So, I think we ought to do something either
24 that makes -- this is not the exclusive authority for
25 taking this kind of action.

1 MR. SHAPIRO: Let me ask you a question.
2 Do you feel that right now the CHRB has the ability
3 and right to install video cameras anywhere within
4 the enclosure that it would choose, or place guards
5 where ever it would choose, or have heightening
6 surveillance at its discretion. Do we have that
7 right in your opinion?

8 MR. KNIGHT: I have not looked at this for
9 a long time. But my recollection at the time we
10 first looked at it that was our view, yes. You do
11 have that authority.

12 MR. SHAPIRO: So, if we have that authority
13 now and it is not limited by factors that are
14 outlined here in this rule, I'm not sure why to we
15 are taking the action to enact this rule.

16 So, personally if you are of that opinion
17 and we already have these powers, then I would
18 propose that we not proceed any further with this
19 rule, unless I'm missing something.

20 MR. MOSS: Well, I think this came about
21 because everyone is concerned. So, I believe these
22 meetings that were taking place, the Ad Hoc meetings,
23 were full of a lot of passionate people that wanted
24 to do something about what was considered a serious
25 situation.

1 I mean, if we are saying that we can do
2 this without, you know, we can create surveillance
3 without having a law any time we like, well, then
4 fine.

5 MR. SHAPIRO: Well, that is why I asked the
6 question I did. It is my understanding from what
7 Derry just said that this rule isn't adding anything,
8 and in fact maybe limiting the power that we already
9 have.

10 MR. HARRIS: It sounds like if you don't
11 fit these categories -- regardless, it's not
12 intrusive. It's not like by doing it you are
13 hampering a person's ability to operate.

14 MR. DERRY: Well, my recollection --

15 MS. FERMIN: Well --

16 MR. DERRY: Go ahead.

17 MS. FERMIN: I was just going to say what
18 if 1 through 5 were eliminated?

19 MR. SHAPIRO: Well, again that gets to the
20 point, and maybe we need for Derry to weigh in on
21 this. I agree that the original intent here was to
22 cover all basis to make sure that if we chose to put
23 in cameras on a particular barn, or guards on a
24 particular barn, or anything that we felt was to
25 protect the integrity of the game, that we were being

1 belt suspenders with this rule.

2 Now, if you are telling us, and maybe we
3 need you give us a opinion, whether we have that
4 right now or not. This rule as it is currently
5 written I am concerned we weakens our ability.

6 MR. KNIGHT: Well, let me go back. Part of
7 the issue is that if you have standards that you are
8 using, criteria if you will, for taking certain
9 action, which obviously would impact the trainers and
10 the owners that are involved, there is a certain
11 stigma -- a minimum that presumably attaches to the
12 fact that your horse has been sequestered from the
13 rest of the horses.

14 If you are using criteria under State law,
15 you can't just do this on an Ad Hoc basis if you in
16 fact have rules. And the way I recall this came up
17 in terms of regulation was there was a discussion of
18 a checklist of what was going to be used for purposes
19 of taking this action.

20 Apparently that was -- I don't know if this
21 is going on now, but apparently on an Ad Hoc basis
22 this was already happening to some extent anyway, and
23 these were some of the criteria that had apparently
24 triggered these Ad Hoc actions.

25 However, if you are going to develop a

1 checklist that you give to the stewards that says if
2 any of these things happen, then here's what you are
3 to do. That requires a regulation.

4 And I think that is kind of how we got into
5 the need for regulation here, because I think the
6 first I saw for example, I saw the list of these
7 trigger events, if you will, and that concerned me
8 from a regulation standpoint that you do have to have
9 a regulation.

10 If you are going to give your staff a
11 checklist that they look at and when A, B, and C
12 occur, they're suppose to do something else, then
13 that requires a regulation.

14 That is kind of how we got where we are, I
15 think. While you may have the ability to do this on
16 an Ad Hoc basis, you don't have the ability
17 necessarily to have these criteria that you operate
18 under.

19 MR. HARRIS: But if we suggest criteria, by
20 doing that, we are saying if you don't meet these
21 criteria then you could not be subject, and I think
22 we want it where anybody can conceivably
23 subject -- if the opinion of the investigators or
24 executive directors that they warrant a closer look.

25 MR. MOSS: Yeah, but somebody is saying --

1 well, let's say a horse's, you know, the history has
2 dramatically improved -- performance of horses from
3 training -- on multiple occasions.

4 And we don't have this in writing as Derry
5 has mentioned. Somebody would feel we are picking on
6 them, that we are being unfair to them. Even though
7 we have the right to do that, if it is not written
8 down, he might charge us with being unfair in some
9 way -- and put cameras in his barn, and all that kind
10 of thing. When this would allow us to do that
11 without even any mention.

12 MR. HARRIS: Well, if we have some
13 suspicion, but the person doesn't fit the needs and
14 we want to do it, I would hate to -- the guy who goes
15 to set up the camera, he says you can't have a camera
16 there, because I do not meet the criteria. I haven't
17 won a race since --

18 MR. MOSS: Well, then the camera wouldn't
19 be there.

20 MR. HARRIS: Well, maybe the guy is doing
21 something, but just the fact that he's winning races
22 doesn't necessarily mean he's doing something. We
23 want the ability to be very flexible, and I guess it
24 gets down to rights of unreasonable search and
25 seizure and all these kinds of things. It is pretty

1 nonintrusive. We're not saying we're going to go out
2 to the guy's car any time he comes in.

3 MR. SHAPIRO: What I would suggest is that
4 we delete items under subsection A items 1 through 5
5 and that we just keep the language there that
6 says -- end the sentence "and during any race meeting
7 if such horse, stable, or trainer is within the
8 enclosure or within the premises overseen by the
9 CHRB," and then just leave in paragraph B.

10 That basically allows us to use whatever
11 measures that we feel and deem are appropriate for
12 protecting the integrity of the game, but not be held
13 to specific standards.

14 I mean, there may be a horse that is
15 improving dramatically from the claiming ranks or
16 other classifications, and it says on multiple
17 occasions, or what happens if a win ratio is at 24.5
18 percent?

19 These items -- is my opinion is just too
20 limiting. So, I would propose that if we feel we
21 need to have such a rule to protect the integrity,
22 then I would simply say that we should delete these
23 items.

24 It's my understanding these items were kind
25 of reflective or responsive to when we were asking

1 for emergency status. So, I'm not sure we need them
2 anymore.

3 MR. MOSS: The only question I have is we
4 are a Board and we meet once a month, the stewards
5 are active every day, and they need some guidance
6 perhaps. That is the question I have.

7 MR. HARRIS: It's not the stewards -- the
8 stewards wouldn't be the ones to implement this. You
9 have to keep in mind they're going to hear the case.
10 But the ones that are really doing this are
11 investigators, which we have got several in each
12 track.

13 So, the investigators are the ones that are
14 actually interested in heightened security.

15 MR. JAMGOTCHIAN: May I address this
16 matter? It really affects what I am here for. My
17 name is Jerry Jamgotchian. Mr. Moss, you bring up
18 something that is very significant. Somebody
19 mentioned that the stewards don't make decisions to
20 post guards at stalls when that is absolutely not
21 true.

22 MR. SHAPIRO: Okay. Mr. Jamgotchian, I'm
23 going to have to interrupt you --

24 MR. JAMGOTCHIAN: This is important. You
25 can't cut me off.

1 MR. SHAPIRO: If you want to talk -- I can
2 cut you off. Do not talk about any specific
3 instances.

4 MR. JAMGOTCHIAN: Right. In a nonspecific
5 manner, it is been proven and shown that stewards can
6 send security guards to stalls and keep horses from
7 being removed from the grounds or remove horses from
8 stalls without any hearings. There is somebody in
9 this room right now who had her horse taken by the
10 stewards without a hearing.

11 My horse has security guards posted at its
12 stall and was not allowed to be removed from the
13 grounds. So, Mr. Moss brings us something you all
14 ought to listen to. There have to be specific
15 criteria to give stewards direction. If not,
16 stewards at the request of Ms. Fermin or anybody else
17 can do whatever they want. You need to specific
18 criteria. Thank you.

19 MR. SHAPIRO: Thank you. What I would
20 suggest is that -- I would recommend that we ask for
21 our attorney general to go back and look at it and
22 advise the Board more specifically on what our
23 existing rights are now, what this rule does both to
24 limit them or increase them so that we can make a
25 more informed decision if that would be okay with the

1 rest of the Board.

2 MR. BIANCO: Fine with me.

3 MR. SHAPIRO: There being none, then that
4 is what we'll do and we'll move forward.

5 Item No. 5, discussion and action by the
6 Board on two proposed amendment of Rule 1472, Rail
7 Construction and Track Specifications, to accommodate
8 the installation of polymer or wax coated sand racing
9 surfaces.

10 MS. WAGNER: Jacqueline Wagner, CHRB staff.
11 At our last Board meeting in December, the issue of
12 Polytracks and installation of them on California
13 race tracks was discussed. Polytrack as you know are
14 currently used in Europe and parts of the United
15 States. And they're viewed by many in the industry
16 as a promising long-term solution to the problematic
17 organic race tracks surfaces.

18 The proposed amendment to Rule 1472 would
19 allow for the installation for Polytrack here in
20 California. Specifically, the amendment would
21 provide that a polymer or wax coated sand track
22 surface shall conform with the minimum
23 recommendations of the manufacturer regarding the
24 percent of cross -- and then the requisite drain
25 installation.

1 I've discussed this language with Craig
2 Fravel. He may be able to run some additional
3 information to you. That staff would recommend to
4 the Board direct us finished a 45-day commentary on
5 this rule.

6 MR. SHAPIRO: Thank you. Do any of the
7 commissioners have any comment? Does anybody in the
8 audience?

9 MR. HARRIS: Are we checking -- I think it
10 is a good idea to obviously allow Polytrack but is
11 that part of a track's obligation to verify that
12 those percentages are correct? I have never seen
13 anybody go out there and look at it.

14 MR. SHAPIRO: I don't know. I know that we
15 do a track inspection before the beginning of each
16 race meeting. Now, whether or not somebody actually
17 measured these percentages I don't know. Perhaps we
18 could hear from the staff or some of the industry who
19 would advise us. Mr. Schiffer?

20 MS. MORRETTI: I just have a question about
21 it too, and then perhaps you will be able to address
22 it. In terms of -- I think Jacqueline you said
23 according to the manufacture's whatever -- my concern
24 about the Polytrack is in terms of method of
25 application and quality control of the materials

1 being used.

2 And is there one way to do it? Is there
3 one -- is there a ratio of certain sand to the
4 polymers, to the this, to the that, that makes it the
5 best qualified track so that if Hollywood decides to
6 do it, or Del Mar decides to do it, do we know that
7 we are going to have the same consistency at both
8 tracks? The whole quality control issue is one I'm
9 concerned about.

10 MR. SHAPIRO: My understanding is that the
11 formula is different at every track.

12 MR. HARRIS: It's customized.

13 MR. SHAPIRO: Based on weather, humidity, I
14 mean all those are factors you -- but California's
15 Polytrack expert is standing at the microphone.

16 MR. FRAVEL: Craig Fravel, Del Mar
17 Thoroughbred Club. I think that is a very legitimate
18 question, but the actual formula itself is a rather
19 well kept secret. It's kind of like the mixture for
20 making Coca-Cola. But by enlarge, there is very
21 close approximation between the various quantities of
22 materials used.

23 For example, I can tell you the basic
24 criteria for the sand that's utilized. And that's
25 not a big secret. It is supposed to be in excess of

1 90 percent Silica so that it is sufficiently hard so
2 that you wouldn't have break down and compaction
3 issues that you would have with a normal race track.

4 So, there are some standards that I think
5 would be useful to make sure the Board is apprised of
6 what those are. And ultimately I think -- there are
7 other folks out there who will or will in the future
8 make similar surfaces.

9 So, I wouldn't suggest that Polytrack will
10 be the only one ever made. I think as a reasonable
11 goal it would be a great thing if all the race tracks
12 in California were very similar from a performance
13 standpoint. So, I'm not sure if that answered your
14 question, but it is pretty specific in terms of
15 what's in there. I don't think you have a huge
16 variation in quality control issues.

17 MR. SHAPIRO: But going towards
18 Commissioner Morretti's comment, how do we know
19 that -- how do you know that the formula as used is
20 going to work and be safe so that there isn't a
21 problem -- but I guess if any track surface --
22 they're all different today anyway, aren't they?

23 MR. FRAVEL: Oh, yeah. They're all
24 rather -- well, Santa Ana and Del Mar are probably
25 relatively close in terms of there actual content,

1 but still not identical. And they are all different.

2 Part of that is environmental. I mean the
3 situation at Del Mar is different than in Hollywood
4 from an underground soil standpoint. And also
5 material. There is virtually no way to assure that
6 each and every batch of this stuff is going to be the
7 same.

8
9 That they are doing test mixes shortly at
10 Hollywood Park of various sand sources and other
11 things. And I think the logical answer to that is we
12 just all need to work together and monitor how that's
13 done, and we should sit down and discuss that very
14 issue. I don't think we have any objection to
15 figuring out to provide those kinds of assurances.

16 MR. SHAPIRO: Have you reviewed these
17 proposed specifications, and are they broad enough?

18 MR. FRAVEL: The only thing we really
19 talked about is the percent of slope in the turns and
20 in the straight-away. Basically an application in
21 Europe at a turfway park, they have attempted to get
22 as flat a surface as possible and the straight-away,
23 and a two and a half percent or slightly greater
24 grade in the turns.

25 And the reasons for that I think are

1 simple. One of the rationales for banking other than
2 the centrifugal force issues of horses going around
3 turns is to provide particularly in the straight-away
4 appropriate drainage for race tracks.

5 In our tracks currently all drain to the
6 inside, which is beneficial in terms of getting water
7 off, but also it creates biases, and either dead or
8 alive rails, speed biases or anti-speed biases and
9 all that kind of stuff.

10 The beautiful thing about the overall
11 Polytrack installation is that it starts from the
12 bottom up. And it features a very state of the art
13 draining system and subsurface that will be very
14 consistent between the various race tracks assuming
15 they all follow the engineering guidelines that has
16 been suggested to everyone.

17 And basically it drains vertically. The
18 water goes right through and drains out through the
19 drainage system so that you don't need water running
20 off the top when it's raining.

21 So, there is a substantially lower degree
22 of need for banking from a drainage standpoint. You
23 still have some banking in turns, but both according
24 to anecdotal evidence and some testing that we have
25 had done by the University of Maine as well as

1 someone over at Davis that the shear strength of the
2 surface is much greater than a traditional race
3 track.

4 In other words, it doesn't break out from
5 under the horse's hoof even though it has very
6 friendly compaction so that the horses losing their
7 footing on the way around the turn, at least from
8 everything I've been told at Turfway Park and in the
9 UK is really not an issue. So, the shear strength of
10 the product makes up for the lack of banking in the
11 turns if you will.

12 And unfortunately he's not here, I know
13 Richard Mandella is a huge proponent of trying to
14 eliminate some of the grade particularly in the
15 straight-aways of the race tracks because he just
16 doesn't feel it's good for horses to be running at a
17 tilt all the time. And I think probably most
18 trainers would feel that way. If you can reduce
19 banking particularly in the straights that's
20 important. So, that's the genesis of what we're
21 asking for here.

22 MR. HARRIS: I sort of wonder if really we
23 should be regulating banks. It seems like it should
24 be up to the horsemen and tracks and what they think
25 is the best bank rather than the CHRB coming in and

1 saying this is the bank you should have.

2 MR. SHAPIRO: I don't have an opinion on
3 it. I don't know why it is in our rules to begin
4 with.

5 MR. FRAVEL: I think it was in the rules to
6 begin with because there was rather a significant
7 lack of consistency 10 or 15 years ago when we
8 adopted these regulations that govern track safety.

9 And Mr. Fontana is here. We went through a
10 whole slew of meetings within the industry to come up
11 with some clear safety criteria, which I think has
12 been well received nationally in terms of how race
13 tracks should be handled on a consistent basis on
14 every track California, the safety rail.

15 We all meet certain minimum requires, and
16 the inspection of the requirements that the CHRB has
17 under those regulations has been helpful in making
18 sure you don't lose sight of those issues. But I
19 think this is one in particular item where we all are
20 looking for the answer to the race track surface
21 issue.

22 And now we think we have a very promising
23 one, and the feedback we have gotten is that we don't
24 need quite the specificity on that particular item
25 regarding slope.

1 MR. SHAPIRO: Well, if it makes sense that
2 if horses could run on a truly flat surface versus
3 one that's got a crown, or has got a slope, or
4 something like that, that does not contribute to you
5 would think to better soundness.

6 I did participate with Del Mar and a bunch
7 of other people in a presentation of the 22nd
8 Agriculture District and you showed at that time a
9 presentation, which was helpful to them to
10 understanding what Polytrack is.

11 I would suggest as you may recall in our
12 February meeting, you promised to bring a discussion
13 back on track surfaces. I would ask you bring that
14 presentation so that all the Board members and
15 anybody who hasn't seen how Polytrack is actually
16 installed and what's involved with the draining
17 system, and the base, and everything, they could be
18 more enlightened on it, because I think it would be
19 helpful in understanding --

20 MR. FRAVEL: And I should also add in the
21 future that we have been working with Wayne Mackeroy
22 and Dr. McPeterson on project as well as Sue Stover.
23 I think that our scientific ability to evaluate the
24 shear strength and compaction issues related to these
25 race tracks will improve dramatically in the next

1 year.

2 They're developing equipment, McPeterson
3 is, that will help us measure on a day-to-day basis
4 what's going on with the racing surface. And that
5 will have utility for Polytrack or traditional racing
6 surfaces as well. So, I think the opportunity is
7 there to get more and more scientific about this
8 particular issue.

9 MR. MOSS: Just one little question,
10 because I know Del Mar has so many other events on
11 that race track over the course of a year. Has
12 anybody made any kind of finding as to how this
13 affects Polytrack

14 MR. FRAVEL: Well, we have discussed that
15 at length with Martin Hall and the developer and --
16 the only thing that really goes on a regular basis on
17 than track other some horse events is how the lights,
18 which is the thing that goes on the outside of the
19 race track, and we've discussed that.

20 Even currently that stays on the outside 12
21 feet or so. And we don't think it is really
22 problematic on that basis. But he's not actually
23 concerned with the vehicular traffic over the
24 surface.

25 MR. SHAPIRO: Does anybody else have any

1 comment?

2 MR. SCHIFFER: My name Dan Schiffer. I
3 represent Pacific Coast Quarter Horse Racing
4 Association. We are concerned about this amendment
5 for several reasons, one being that often times the
6 decisions are made by the Board, by the industry
7 without taking into account the different interests
8 including the quarter horses.

9 And at this point, the polymer track has
10 not been studies as to suitability for the quarter
11 horse as a quarter horse racing surface. We
12 understand that the AQHA is presently contemplating a
13 study. We are going to attempt to push the AQHA to
14 move that study forward as a priority and see what we
15 can find out about the suitability.

16 We understand that the manufacturer of the
17 Polytrack that everybody is looking at has not done
18 studies regarding quarter horses, and it concerns us
19 because if this regulation is a precursor to a
20 mandate that all tracks are to put in this type of a
21 surface and the manufacturer hasn't done their
22 homework on this, are we going to be bound by
23 Thoroughbred type standards which may not be
24 appropriate for the quarter horse racing industry.
25 In that regard, we would like you to move slowly and

1 to take into account the quarter horse.

2 MR. SHAPIRO: I think your point is well
3 taken. Would you be more comfortable that if the
4 revisions that we were talking about apply to those
5 race meetings that were Thoroughbred race meetings.

6 And then when the data is in that the old
7 standards would exist for tracks that are not of a
8 Polytrack type surface, or the breeds the same I'm
9 sure with a harness. I have no idea how it would
10 work for harness racing.

11 You are right. We have focused on
12 Thoroughbred racing. I don't think anybody's intent,
13 at least, I'm not aware of anyone's intent to try and
14 put this into use in a situation would be
15 appropriate.

16 But we also want to make it available for
17 those tracks that do put in Polytrack That the rules
18 will permit it, and I understand that for quarter
19 horse racing or harness racing that that may have to
20 follow in terms of any mandate the Board decides to
21 make in the matter. Would you be satisfied if
22 basically the status quo --

23 MR. SCHIFFER: I do believe the quarter
24 horsemen believe that we should be flexible in
25 regards to the use of this. And we do, if it is a

1 surface conducive for our industry, we definitely
2 will embrace it.

3 And I don't think that the language as it
4 is other than the word manufacturer is problematical
5 unless we go to the next step where the Board is
6 mandating this surface is to be used.

7 What my point is, is if the AQHA as an
8 outside body is doing the study and the manufacturer
9 doesn't adopt it -- that study for whatever reasons,
10 we may be blocked into a configuration that is not
11 appropriate for our industry. And I think that is
12 the basis of our concern.

13 MS. MORRETTI: Do you know when that study
14 will be completed?

15 MR. SCHIFFER: It hasn't been a priority,
16 but we are going to try and push it as a priority.
17 So, I don't have --

18 MR. HARRIS: All this regulation does, it
19 says if you have a Polytrack you are not bound by the
20 percentages of slopes. If you don't have a Polytrack
21 you are, which I don't know if we should even delve
22 into that.

23 But clearly this only impacts slopes on
24 Polytracks, and I could see where obviously quarter
25 horse people need to look at. Although, there is no

1 real evidence that it should be a problem with
2 quarter horses.

3 MR. SCHIFFER: Not so far. We don't know
4 at this point.

5 MR. SHAPIRO: We understand that, but we
6 need to make sure that our rules are flexible enough
7 to allow those tracks that decide that they want to
8 put in a Polytrack or that the rules will allow them
9 to do so and not be in violation of our rules.

10 MR. SCHIFFER: I understand.

11 MR. SHAPIRO: I think that's our intent.

12 MR. SCHIFFER: I think our main problem
13 with the proposed language is the use of the term
14 manufacturer's specification, where it may be a more
15 general term could be used such as the best
16 specification or safety, or whatever. I'm not sure
17 of the language.

18 MR. SHAPIRO: Can I suggest that you come
19 back in the comment period or propose to us a
20 revision that you would find that would be acceptable
21 to you and so that we can then incorporate it into
22 the rule.

23 MR. HARRIS: I would implied that obviously
24 the track -- is going to have input into it. So, it
25 is not strictly the manufacturer --

1 MR. SCHIFFER: Thank you.

2 MR. SHAPIRO: I think we should also make
3 the point that we keep calling it Polytrack I'm not
4 sure that it isn't when we say Polytrack what we are
5 referring to is a Polytrack type of surface. It may
6 be Tepeda.

7 I know Mike Dickenson has a competing
8 product that's called Tepeda. It is the same type of
9 an idea, but I don't think we are mandating that it
10 must be a specific manufacturer's track surface.

11 MR. LIEBAU: Mr. Shapiro, my name is Jack
12 Liebau and I am from Hollywood Park. I think the
13 term Polytrack as much meaning and has gotten to be
14 any sort of track that is other than a dirt track.

15 I am certainly not an expert on Polytrack
16 and not in Mr. Fravel's league in this, but I have
17 just returned from England. And the tracks that are
18 now being installed by Martin -- aren't referred to
19 as Polytracks. They're referred to as Echotracks.

20 And what the difference is I don't know.
21 But one of the main problems that there is now that
22 Commission Morretti brought up is I don't think you
23 can ever specify what goes into this "Polytrack".

24 The most successful Polytrack I think is
25 at -- in England. It has a component called jelly

1 cable in it. And the new tracks over at Hampton and
2 at Turfway do not have jelly cable. And that might
3 be a reason why there is no kickback.

4 But with that said, I would just like to
5 say with respect to this regulation I would certainly
6 think it needs to be adopted. If it in any way
7 inhibits the future installation of "Polytrack," but
8 I was wondering if Derry could comment as to whether
9 you could incorporate in a State regulation some
10 unknown manufacture's specifications.

11 So, I guess I'm with Mr. Schiffer here in
12 that maybe the regulation could delete the reference
13 to the manufacturer's specifications, which are one,
14 we don't know who the manufacturer is, we don't know
15 what the specifications are, and we are incorporating
16 some private specifications if they even do exist in
17 State regulation, which I would think there might be
18 a problem with, but I would certainly care on it.

19 MR. SHAPIRO: I think the point is well
20 taken, and I don't know if we should be referring to
21 it as a polymer base, or a synthetic track, or lack
22 of a proper term -- I kind of hate to keep using the
23 word Polytrack when there are other manufacturers --
24 to be that we are licensing or intending to license
25 only one manufacturer.

1 So, I think that's a good point and that we
2 should look to not just adopt one manufacturer. So,
3 if staff will look at that, I'll work with Derry.

4 MR. SHAPIRO: I think that is probably a
5 trade name similar to Polytrack is what Echotrack
6 would be. It is the same issue -- Michael Dickenson
7 calls it Tepeda, but it is really the same idea.

8 With that moving forward, I would entertain
9 a motion to approve this with the comments
10 incorporated that have been made if we can. I just
11 want to see it move along. It's got to go out for
12 comment.

13 MR. HARRIS: I don't know if we could just
14 take out -- basically we are saying you guys just
15 have to figure out how the slope works. Could we
16 just take out that it is -- the polymer or wax coat
17 in sand track surfaces shall not have to conform with
18 the slope references?

19 MR. SHAPIRO: Or just be acceptable to the
20 Board at which point we would have the latitude to
21 have the presentation of what's made to the Board.
22 We can then make sure it is safe.

23 MR. HARRIS: Well, I think whoever pays the
24 \$8,000,000 hopefully is smart enough to figure out --

25 MR. SHAPIRO: That is why not being track

1 experts I think we are going to approve it. But I'm
2 saying the same thing.

3 MR. HARRIS: Yeah.

4 MR. SHAPIRO: Okay. So, will you make --
5 someone make such a motion?

6 MR. HARRIS: I just move that the slope
7 provisions in this section will not apply to polymer
8 or wax coated track surfaces.

9 MS. MORRETTI: I thought that is why we are
10 doing this.

11 MR. HARRIS: Well, right now you couldn't
12 put a polymer track in if it didn't comply with our
13 slope criteria. We are saying the polymer track --
14 slope criteria. So, we're just saying what goes into
15 exempt polymer tracks -- the slope criteria.

16 Obviously just because we exempted this --
17 obviously the track and horsemen are going to have
18 input of what they come up with.

19 MR. KNIGHT: How about making it subject to
20 Board's approval?

21 MS. MORRETTI: Yeah, because I think we
22 have to have parameters because we don't know enough
23 about this.

24 MR. KNIGHT: Exactly.

25 MR. HARRIS: Right. Well, I guess you can

1 approve it, but obviously as millions and millions of
2 dollars are invested in the horses and tracks, I
3 don't know if it is our role to say what slope we
4 want. You want these guys to figure out what's going
5 to work for them.

6 MR. MOSS: So, I think we need it exempt --

7 MR. HARRIS: I think going we just need to
8 exempt polymer tracks from the slope --

9 MR. SHAPIRO: Well, and I think that going
10 to the other comment is that in Item No. 3 at the
11 very last page, "And they shall conform to acceptable
12 standards to the CHRB." And I am not finding what
13 those standards are because they'll be presented to
14 us I'm assuming as part of any installation of a
15 track.

16 MR. FRAVEL: Craig Fravel again. As I
17 recall when we wrote the regulations 10 or 15 years
18 ago, we provided in them that specific provisions
19 could be waived by the Board if the proponent of the
20 change made an application to do that and provided
21 ample rational for -- and for example Del Mar would
22 do something a little different on the ten-foot
23 requirement because of the configuration of our
24 track.

25 So, I think if you just simply wrote some

1 language to the affect that the Board can waive that
2 particular requirement upon presentation of an
3 application therefore by a race track, that probably
4 would get us where we want to go. The whole idea is
5 to shorten the time frame that we have.

6 MR. SHAPIRO: Correct.

7 MR. FRAVEL: If Del Mar were going to do
8 this for example, time is running tight for -- almost
9 '06, but even if we wanted to do it for '07, we can't
10 wait for nine months of rule making to take place to
11 do these things. So, the idea is to give you guys
12 and us the ability and that's all we're looking for.

13 MR. SHAPIRO: That's all we're trying to
14 do.

15 MR. FRAVEL: If it means that we come back
16 to the Board with an application that specifies the
17 justification for the waiver of those slope
18 requirements, I don't think anybody is going to
19 object to that.

20 MR. SHAPIRO: Okay. So, do you want to
21 incorporate that into your motion?

22 MR. HARRIS: I still don't why we need the
23 slope requirements for polymer track. I think we
24 don't know -- obviously, the tracks and the polymer
25 manufacturers should decide that. I just don't think

1 we need a requirement.

2 MR. FRAVEL: Well, at some point, you
3 probably need some -- you know, I am not a big fan of
4 regulations, but you do need to make sure that -- for
5 example, part of the reason you can eliminate the
6 slope is because of the drainage system you are going
7 to put in.

8 Now, somebody could say in five years from
9 now who's not at this meeting and buy Hollywood Park
10 next month, "Well, I don't want to put in the
11 drainage system, but I want to put in the Polytrack
12 top surface." Well, there's a lot of reasons why you
13 may not want to have them do that.

14 So, I think the issue -- you don't want to
15 eliminate it entirely. I think it does make some
16 sense to try and maintain these -- and to the extent
17 we can more consistent to achieve that. But I think
18 if we just put it in the application and unless it
19 applies for a waiver of that particular requirement
20 and clarify that, we'll be good.

21 MS. FERMIN: Let me just suggest, I think
22 Jackie is looking like she has a very confused look
23 on her face, and I'm wondering whether maybe she can
24 work with Craig Fravel and come up with something
25 that would kind of neutralize it and make it

1 acceptable to both license applicants as well as
2 looking at our rule.

3 MR. SHAPIRO: Well, the only concern I have
4 then is if this has to go out for how many days?

5 MS. WAGNER: 45 days. What we're doing
6 right now is trying to come up with the language that
7 we will ultimately submit for the 45 day period.

8 So, I can get with Craig and we can come up
9 with some language that can encompass what we
10 discussed here possibly to eliminate the slope
11 requirement that will just basically allow for the
12 installation of a Polytrack here in California
13 without going into a lot of specifics.

14 MR. SHAPIRO: And I would suggest that we
15 basically do as Craig said, which is to make some
16 form of a notwithstanding. The Board has the
17 approval -- has the right to approve any variations
18 to this, you know, as exceptions.

19 MS. WAGNER: I will get with Craig, and
20 we'll come up with the language that will just allow
21 for the installation requirements.

22 MR. KNIGHT: Can I make another suggestion?
23 Rather than using polymer or maybe using that, but
24 perhaps you want to use polymer, synthetic, wax coat,
25 or similar tracks, or something like that because it

1 seems to me, I mean, I don't know what's out there,
2 but is wax coated and polymer, are they the only ones
3 that are wax coated?

4 MS. WAGNER: That language, I consulted
5 with Craig Fravel on that particular language, and
6 that was the -- that we came up with in order to
7 eliminate addressing the trade name Polytrack. If we
8 need to elaborate, that is to include other
9 descriptions. We certainly can do that.

10 MR. SHAPIRO: Okay. So, will you
11 incorporate all that into your motion Mr. Harris?

12 MR. HARRIS: Sort of. I guess we have get
13 it started. Essentially, we don't want to inhibit
14 the progress.

15 MR. SHAPIRO: Absolutely.

16 MR. HARRIS: I would first -- if we're
17 enforcing the rule we have now, I guarantee you if
18 you see a puddle in the track some place that doesn't
19 have a slope, so, that would be a bit of a project
20 for us this afternoon for surveying --

21 MR. SHAPIRO: We'll get you a hose and
22 we'll get you some boots, and we'll let you go out
23 and make a puddle and we'll watch you. Is there a
24 second to Mr. Harris' -- Commissioner Harris'

25 MR. MOSS: Second.

1 MR. SHAPIRO: Mr. Moss. All those in
2 favor?

3 MS. GRANZELLA: I.

4 MR. ANDREINI: I.

5 MR. BIANCO: I.

6 MS. FERMIN: I.

7 MS. MORRETTI: I

8 MR. HARRIS: I.

9 MR. SHAPIRO: Okay. Thank you. Item No.
10 7, discussion and action by the Board on the request
11 of the Bay Meadows -- did I miss 6?

12 MR. DERRY: Yes.

13 MR. SHAPIRO: Thank you. Okay. Discussion
14 and action by the Board on two proposed amendments to
15 Rule 1974, Wagering Interest. One, repeal of Rule
16 1974 and 1606, which eliminates coupled entries or
17 two, to amend Rule 1974 to provide that the
18 withdrawal of one horse from a wagering interest that
19 consists of more than one horse constitutes the
20 withdrawal of the coupled entry for wagering purposes
21 only, and any horse remaining in the coupled entry
22 shall run for purse only.

23 Mr. Moss?

24 MR. MOSS: Yeah, this is J. Moss of
25 Pari-Mutuel -- the feeling was that in this day and

1 age, no better should be stuck with a horse that
2 needed to be bet on.

3 And so, there were many different ways to
4 deal with it, and I think the most -- the less
5 complicated way is just to eliminate a couple entries
6 so the people could have more betting interests, and
7 it would be an easier situation for everybody
8 concerned. So, I make a motion that we eliminate
9 entries.

10 MR. SHAPIRO: I'll let you make the motion
11 in one second. I happen to agree with you
12 wholeheartedly, but I'll see if anybody has any other
13 comments. Audience, on it?

14 MR. HARRIS: I clearly think -- I mean,
15 there is three different ways to go. These people
16 have a lot to do, or eliminate a couple entries, or
17 there was one proposal if there is one party
18 scratched -- or entry is scratched for wager
19 purposes, I think that was not a good idea.

20 But I could see that with a -- the counter
21 argument that might be made is the concern that
22 person will try to influence the race with two
23 uncoupled entries, and there is some concern on that.
24 But we're doing that with trainers now. So, I do not
25 see --

1 MR. SHAPIRO: I agree with you totally.
2 We're doing it with trainers now. It is only if the
3 same -- I thought it was interesting last week when
4 Folklore ran -- it was a great example.

5 In that situation, had Folklore scratched,
6 and I think it went off at 1 to 5, or 2 to 5, well
7 that one would have worked out because people would
8 have gotten the other winner, but clearly the other
9 horse would have been big prize.

10 So, I think that given -- since there
11 doesn't seem to be any discussion, I will now
12 entertain --

13 MR. HARRIS: I think there might be some
14 audience discussion on it.

15 MR. SHAPIRO: That's what I asked and I
16 didn't see anybody step up. Do you have anything to
17 say about this? Nobody wants to do anything. Thank
18 you very much.

19 MR. MOSS: Ron Charles and I, we brought
20 this to the attention at the Pari-Mutuel committee
21 meeting. We thought it was something that we should
22 at least try in uncoupling the entries rule, add to
23 field size. And it just seems like this day and time
24 that we are running such short fields that it is an
25 opportunity to increase field size, which increase

1 handle. And so, we support it. Thank you.

2 MR. SHAPIRO: Anybody else?

3 MR. COUTO: Drew Couto, Thoroughbred Owners
4 of California. I am going to propose one last time
5 an argument that has been shot down every time. So,
6 I'll just be consistent.

7 There was one alternative knot mentioned
8 here, and that is the option of continuing to offer
9 the entry for purposes of preserving wagering
10 integrity for those who question whether or not a
11 horse is simply entered as a rabbit versus a
12 legitimate purpose to compete.

13 So, you would offer the entry and you would
14 also allow the player to bet the individual horses on
15 their own. So, if they actually prefer the longer
16 shot in the entry, they have the ability to get a
17 better price on that horse versus the shorter.

18 And what that actually does is while you
19 may have two horses running, you now have three
20 betting entries. And when he have short fields, six
21 horse field, seven horse fields seem to be the
22 regular, at least in California, if you have an entry
23 with six horses, you only have five betting
24 interests.

25 If you allow the entry in each horse with a

1 six horse field you actually have eight betting
2 interests. The combinations are better from the
3 player's perspective. The public is protected in
4 having the entry continue, and players who find value
5 in the longer priced horse actually have the ability
6 to bet the longer priced horse.

7 But really the difference between what is
8 being proposed and what I am proposing is simply that
9 you're preserving the protection afford the betting
10 public by continuing to offer the entries so that
11 there really aren't these concerns of whether there's
12 a rabbit or pace horse versus legitimate runner.

13 The down side to this proposal, which I
14 will admit, is as Mr. Charles would be the first to
15 point out, it makes it more difficult for a race
16 track to post the results you can have multiple
17 combinations and multiple wagers, because there would
18 be an entry payoff price and an individual payoff
19 price.

20 But in today's day and age, when we offer
21 exactas, and quinelas, and whips, and triples, and
22 trifectas, and I can't all the wagers that we offer
23 on every race and carry from race to race, and the
24 type of electronic technology we have at the race
25 track, the difficulties in posting those prices I

1 don't think is that difficult.

2 And I certainly don't think our betters are
3 not sophisticated enough to recognize which is their
4 payoff and which is not their payoff. So, there is
5 one more alternative as I've said I've been
6 consistently shot down. I just wanted to be
7 consistent here today.

8 MR. SHAPIRO: Is anybody doing it today?
9 Is that done anywhere?

10 MR. COUTO: I don't know.

11 MR. HARRIS: It is confusing that --
12 couldn't you effectively do that and wanted to, you
13 could just bet both horses and it would be the same
14 outcome. You could just bet however you're going to
15 bet, just bet on both of them and you would certainly
16 have the same --

17 MR. COUTO: You could have always done
18 that. But again, the entry was created to protect
19 the betting public against that opportunity. What
20 you're saying now is your investment has to be
21 doubled when it comes to making the wager versus
22 today you don't have to double that wager.

23 MR. HARRIS: But the outcome would be the
24 same though.

25 MR. COUTO: Sure. The outcome is the same.

1 If I bet every horse in the race too, I'm going to
2 get a winner every one, but I may not get value and I
3 may not make money.

4 MR. ALDRIDGE: Ed Aldridge, Los Alamitos.
5 There is one inconsistency that I see in what Drew
6 has just mentioned. There are three possibilities.
7 And one is the long shot, say one of the entry
8 horses, and if he wins, then also the people that bet
9 the entry will also be winners, and actually it will
10 pay less. It won't be a long shot. It will pay less
11 than a long shot.

12 So, it doesn't make any sense to me. If I
13 understand what he's saying correctly. So, I don't
14 understand why that would possibly be beneficial.

15 MR. CHILLINGWORTH: Sherwood Chillingworth.
16 I think we have -- we have people here -- who are
17 confused by three-way payoff. And I think there's
18 enough confusion with this game already. I hate to
19 oppose anything Mr. Couto proposes because he's a
20 very intelligent guy.

21 But I think we are trying to get televised
22 into the racing track and to give them a three-way
23 payoff, and the No. 1 comes up, and they say, "Well,
24 I had No. 1A," but you didn't win, I think it's not a
25 good idea. I think if we don't couple trainers, it

1 makes no sense to couple any other group.

2 MR. SHAPIRO: Thank you.

3 MR. KEMPF: Just a quick one, Doug Kempf
4 with American -- Local 280. Our deal would be
5 certainly receptive to anything that makes wagering
6 simpler. And certainly Mr. Moss' suggestion of just
7 getting rid of entries all together. It is in the
8 easiest and certainly the most facilitative to an
9 end. And I'll support that. Thank you.

10 MR. SHAPIRO: Thank you. Okay. Mr. Moss,
11 would you like to restate your --

12 MR. MOSS: I think a motion to repeal Rule
13 1974 and 1606 involves the elimination of coupled
14 entries.

15 MR. SHAPIRO: Thank you. Is there a second?

16 MR. HARRIS: Second.

17 MR. SHAPIRO: Any more discussion? There
18 being none, all in favor?

19 MS. GRANZELLA: I.

20 MR. ANDREINI: I.

21 MR. BIANCO: I.

22 MS. FERMIN: I.

23 MS. MORRETTI: I

24 MR. HARRIS: I.

25 MR. SHAPIRO: All opposed? None. The rule

1 is passed.

2 MS. WAGNER: Commissioner Shapiro, just for
3 clarification, what we have just done is given --
4 staff is going to initiate the notice period with the
5 option of a 45-day commentary --

6 MR. SHAPIRO: Right. I think we would like
7 to get it done as fast as possible.

8 MR. HARRIS: I'm not sure. I think this is
9 a racing -- the way it is now, given the owner has
10 two horses he is going to enter in a race, and that
11 race overfills, one of the second preference. Now, I
12 don't know if that would change with this, or would
13 that -- would we have to do anything on that?

14 MR. SHAPIRO: I don't know why that would
15 change. I mean, the same horses have been given the
16 race. That is just for wagering purposes.

17 MS. FERMIN: He's saying if it overfills,
18 do they get --

19 MR. LIEBAU: Jack Liebau, Hollywood Park.
20 This might be a little bit out of the order, but
21 perhaps on the agenda at the next meeting there would
22 be an action on waving the rule so that we wouldn't
23 have to wait for the repeal and the 45 days and
24 everything else so that we can have the immediate
25 benefit of what is being suggested.

1 MR. SHAPIRO: I think that is a great idea.
2 If we have the latitude to do that, I mean, I don't
3 know.

4 MR. HARRIS: I would like to move it along.
5 I think we are going to get some comments on this.
6 There are a lot of horse players out there that have
7 all these theories of race fixing or whatever that
8 might come about as a result of this, which I don't
9 necessarily believe. I think it might not be right
10 to just force it through.

11 MR. SHAPIRO: Okay.

12 MR. HAMERLY: Rick Hamerly from Santa
13 Anita. I wanted to follow-up on Commissioner Harris'
14 comment about the entry process. I think that needs
15 to be included in your thought process.

16 And in fact, what happens today when an
17 owner does enter two horses in a race that is
18 overfilled, he's asked to defer one. Just for entry
19 process, I think we need to decide if that process
20 needs to be continued if we do eliminate in fact the
21 wagering interest.

22 MR. MOSS: I think --

23 MR. HARRIS: It ought to be decided, but I
24 think that we would need a racing rule.

25 MR. HAMERLY: Well, we want to be

1 consistent throughout the State and keep it the same
2 way. I would think you would want to continue the
3 same process as far as the entries go. You wouldn't
4 want to exclude another owner from being included in
5 the race.

6 MR. SHAPIRO: I think --

7 MR. MOSS: I think that is true.

8 MR. HARRIS: That is the fair way to do it.

9 MR. SHAPIRO: So, I don't know if you want
10 a rule, but I think that has been a policy that has
11 been implemented. I don't think that is a rule.

12 MR. HAMERLY: If that were considered, I
13 think everyone would be satisfied.

14 MR. HARRIS: Absolutely.

15 MR. MOSS: Fine.

16 MR. HARRIS: So, we've decided to wait for
17 a couple minutes for comment.

18 MR. SHAPIRO: Well, I think that we'll have
19 to put it out. I don't think the current race meets
20 are necessarily looking to make immediate change, and
21 if Commissioner Harris believes that there may be
22 comment, I would hate to do anything that would not
23 allow the public to have comment. So, I think we'll
24 have to wait. But maybe we can get this done by --
25 in a more expeditious way.

1 MR. HARRIS: Basically, if we put it out
2 now, we'd have comments in 45 days -- in 60 days form
3 now, we could effectually.

4 MR. SHAPIRO: Okay. The next agenda item
5 is No. 7, discussion and action by the Board on the
6 request of the Bay Meadows Foundation to distribute
7 charity racing proceeds in the amount of \$58,064 to
8 21 beneficiaries.

9 MR. REAGAN: This is John Reagan, CHRB
10 staff, we find this request to be in order in
11 compliance with the distribution of required bylaw,
12 and we recommend you approve it.

13 MR. SHAPIRO: I do have one comment, and
14 that is I would ask that the charitable -- I received
15 an email from the Jockey's Guild requesting that we
16 not disburse moneys to the Disabled Riders Endowment.

17 Apparently, there is still conflict within
18 the Guild and certain different funds. And
19 therefore, I would recommend that we approve this,
20 but that we not approve the Disabled Riders Endowment
21 at this time.

22 I don't want this to be misconstrued that
23 I'm not looking to harm any of the disabled riders,
24 but there is concern over what organization or who's
25 in charge of that organization. Therefore, I would

1 request that we approve this, but that we hold back
2 our approval with respect to that particular.

3 MR. REAGAN: We can do that, yes.

4 MS. WAGNER: Until when?

5 MR. SHAPIRO: Until there is a resolution
6 as to who is in fact in control of the Disabled
7 Riders Endowment. Currently, I believe that it's Mr.
8 Greganian. There are serious charges against Mr.
9 Greganian, and the Guild has requested that -- and I
10 support that. Otherwise, I'll make that motion.

11 MS. GRANZELLA: Are you just putting that
12 on hold?

13 MR. SHAPIRO: I am approving this request,
14 except for the Disabled Riders Endowment, and I'm not
15 approving the distribution of the moneys to that end.
16 So, that would stay within the Bay Meadows Foundation
17 at this time.

18 MR. MOSS: I second.

19 MR. SHAPIRO: All those in favor?

20 MS. GRANZELLA: I.

21 MR. ANDREINI: I.

22 MR. BIANCO: I.

23 MS. FERMIN: I.

24 MS. MORRETTI: I

25 MR. HARRIS: I.

1 MR. SHAPIRO: Discussion and action by the
2 Board on the request of Hollywood park Racing
3 Charities to distribute charity racing proceeds in
4 the amount of \$194,375 to 25 beneficiaries.

5 MR. REAGAN: Commissioner, likewise this
6 request for distribution is in order, and we
7 recommend approval. We will also the make the same
8 note that the Chairman Shapiro has just noted in this
9 charitable distribution also.

10 MR. SHAPIRO: With --

11 MR. MORRETTI: I just have one comment. I
12 would like to commend Hollywood Park racing for
13 having their distribution be 67 percent
14 industry-related as opposed to the Bay Meadows
15 Foundation, which was only 50 percent.

16 I certainly understand the reason to -- and
17 the need to give out to the community, but I think
18 that there are a lot of really wonderful worthwhile
19 foundations in the horse racing world that should be
20 given more a look at in the future.

21 MR. SHAPIRO: Mr. Liebau?

22 MR. LIEBAU: Jack Liebau from Bay Meadows.
23 With respect to the Bay Meadows Charitable foundation
24 as Commissioner can attest, over the years dating
25 back 1992, we have been sued numerous times.

1 In order not to cause any waves when New
2 Association Bay Meadows Racing Association started, I
3 thought that I would reappoint them. I now view that
4 as a mistake and can assure Commissioner Morretti
5 that the -- association we will distribute the funds
6 ourselves. And we will be at a hundred percent for
7 charities.

8 MR. HARRIS: Just for clarification,
9 formerly those foundations were completely
10 independent, but now there is a latitude for --

11 MR. LIEBAU: There is latitude for tracks
12 to distribute the funds.

13 MR. SHAPIRO: Mr. Liebau, do you know if
14 Hollywood Park would like to take the same approach
15 as Bay Meadows?

16 MR. LIEBAU: I don't think so. I think we
17 have been very pleased over time with Hollywood
18 Park.

19 MR. SHAPIRO: Item No. 9, discussion and
20 action by the Board on the business and economic
21 effect of requiring all California racing
22 associations to make their audio-visual racing
23 program available to any licensed ADW provider.

24 Before we have any discussions, this issue
25 has created a lot of stir in the industry, for which

1 I am responsible. And I would like also let
2 everybody know that earlier this week I met with
3 Senator Dean Flores and Senator Ed Vincent, and with
4 Senator Flores I discussed this item.

5 The legislature as you know had planned in
6 response to this item to have a hearing. In the
7 discussion I had with Senator Flores, we agreed that
8 it would be probably be best for the industry if he
9 and I and others in the industry worked together to
10 evaluate just what ADW is doing, has done, and can do
11 for the industry as a whole in the future.

12 As a result of that, this item is not
13 intended to be an action item today, but more of an
14 informative discussion that I will hope every
15 interested party will give their views.

16 In the near future, I believe there will be
17 a meeting that will be called where we will look into
18 this in greater detail so that we can come to a
19 fruitful conclusion as to what is best for the
20 industry.

21 As you know, there was a sunset clause on
22 ADW wagering that expires in 2008. And so, I think
23 it is important for everybody to focus on this issue
24 to see how it can use ADW to our maximum benefit.
25 That being said, I would suggest that we listen to

1 the industry, unless anybody else wants to make a
2 comment in advance to that. So, Mr. Couto, you got
3 there first.

4 MR. COUTO: Thank you. Drew Couto,
5 Thoroughbred Horses of California. There's been, as
6 I think everybody knows, quite a bit of discussion
7 about ADW and relationships between the industry.
8 And a lot of confusion of that role played by
9 horsemen, by the ADW, by racing associations.

10 And in an attempt to sort of put in
11 perspective where we are in ADW, how we got to where
12 we are, and the roles each played, TOC has prepared a
13 presentation that I'm going to run through very
14 quickly so that we can make this a manageable
15 discussion.

16 But it is rather lengthily. We are passing
17 out for you some copies of the presentation. You see
18 there is a lot of slides. We are going to do this
19 relatively quickly. We welcome any questions that
20 you may have, but I'll try to get through this within
21 10 to 12 minutes if you can bear with me.

22 A time line of California ADW licensing and
23 advance deposit wager licensing, August 13th, 2001,
24 passage of AB471 authorized advanced deposit
25 wagering. And in November of that year at the CHRB

1 meeting, this Board approved and passed CHRB ADW
2 regulations.

3 As part of those regulations -- as part of
4 the law that was passed, which is Business and
5 Professions Code 19604, the legislature and power of
6 the horse racing Board with the ability to regulate
7 all aspects of ADW including the licensing process.

8 That authority was given to the horse
9 racing Board to review the license and make the
10 requirements for ADW providers in order to be
11 licensed in the State of California. And in doing
12 so, the CHRB required an agreement between the ADW
13 provider and horsemen.

14 It's not in the statute. It's not in the
15 regulations. But in reviewing the transcripts of the
16 hearing you will find consistently that requirement.
17 And that requirement has been fulfilled by all of the
18 ADW companies and TOC since 2002 the first year with
19 the exception of this current year and one ADW
20 provider.

21 So, again your predecessors required an
22 agreement between the horsemen and the ADW companies.
23 Now, in every purse contract between the TOC and
24 California Thoroughbred Racing Association, and
25 please understand, my discussion today is only

1 limited to the Thoroughbred industry. It is not
2 related to the Quarter horses. It is not related to
3 Standardbreds and -- but simply with regard to the
4 relationships between Thoroughbred interests.

5 Every purse agreement since 1995 between
6 TOC and a racing association has included a provision
7 in it relating to owner's proprietary rights. And in
8 particular, there is a section related to the use of
9 the signal for bicommercial enterprises, whether it
10 includes computer interactive wagering, et cetera,
11 that has been there since 1995.

12 And it requires that the racing
13 associations negotiate obtain with TOC prior consent
14 before the usage of the signal for any commercial
15 purposes. That's a requirement that has existed as
16 part of the contract since 1995.

17 Now, again, on the time line, in January of
18 2002, the first year in which ADW was permitted
19 beginning on the 10th of January, there were
20 negotiations between TOC and each of the ADW
21 providers that were seeking licenses in California.

22 Representing the two primary ADW companies
23 were Mark Wilson for TVG and Express Bet being Jack
24 Liebau. And they advocated that the ADW provider
25 should receive a hub fee of 6.5 percent, both on

1 wagers by California residents on California races
2 and as well as imported Thoroughbred signals.

3 Their position was that they should receive
4 6.5 percent. With regard to Express Bet, Mr. Liebau
5 at that time advocated that NBC was prenegotiated to
6 its own hub rate.

7 In other words, Express Bet would negotiate
8 with Santa Anita a fair hub rate of 6.5 percent.
9 Mr. Wilson on behalf of TVG advanced that TVG could
10 negotiate the hub fee with its founder tracks, which
11 founder tracks were equity partners, had special
12 interest.

13 Those included Los Alamitos and Hollywood
14 Park, Churchill -- and that Los Alamitos could set
15 the hub fee rate for Thoroughbred races imported into
16 the State based on its contract with TVG.

17 The controlling law regarding hub fees is
18 19604. And it says with regard to either a wager
19 placed on a California signal or an import signal,
20 the ADW is entitled to receive no more, not to exceed
21 6.5 percent.

22 The statute doesn't identify what the rate
23 it is. It simply says it is capped at 6.5 percent.
24 And the rate is actually something negotiated by the
25 parties. Now, a hub fee, I've been referring to

1 that. What is that? A hub fee is simply the
2 compensation paid to an ADW provider for facilitating
3 or handling a wager -- an ADW wager placed by a
4 California resident.

5 And what is a hub fee? To explain that,
6 you have to understand there are distributions on
7 live races in the State of California from the take
8 out. This is a blended rate we are using for an on
9 track wager of 19.22 percent.

10 And then you see the distributions below,
11 State license fee, Equine research, workers' comp,
12 county taxes. And we finally get down to tracks,
13 commissions, and purse revenues and commissions.

14 And the numbers there indicate whatever the
15 percentage is distributed for track commissions
16 purses. As you can see, Ontrack provides the
17 greatest return to race tracks and to purses.

18 The column all the way to the right, this
19 is based on 2000 ADW figures. Had a 6.5 percent hub
20 fee been used, the recovery to the industry would
21 have been the lowest that we get for every wager
22 made.

23 And the same is true with regard to
24 imported races. Using a 6.5 percent hub fee, you can
25 see that percentages distributed to tracks as

1 commissions and to horsemen as purses would have been
2 exceptionally low or the lowest return.

3 So, again going back to 2002, the time line
4 on January 24th, TOC reached an agreement with
5 Express Bet with regard to what the hub fees would
6 be, and it was -- Express Bet was licensed that day
7 based on the representation that an agreement had
8 been reached with TOC. And I will tell you it was
9 not 6.5 percent. It was substantially below that.

10 Continuing on the time line there were
11 meetings in March when all three ADW providers were
12 licensed. Also in April and November and in
13 December.

14 And the fact is that in November after
15 disputing the need for an agreement with TOC, TVG
16 continually disputed that they executed an agreement
17 in December of 2002. And the agreement clearly said
18 that they would receive less than 6.5 percent. It
19 was signed by their president Mark Wilson and John
20 VanDeCamp with no race track signing. It was purely
21 between and ADW company and TOC.

22 And again that's in the very first year
23 that ADW was permitted in the State of California,
24 signed December 16, 2002 before TVG was relicensed
25 for the following year. So, they fulfilled that

1 portion of the agreement.

2 Looking TVG's hub fees for 2002 and 2005
3 you can see they were always less than six and half
4 percent. They also included in their hub fees a
5 quarter percent they passed on to the California
6 industry, the quarter percent tax, the Oregon hub,
7 and the half percent that they pay in dues to NTRA.

8 Now, what was the objective of controlling
9 hub fees from TOC's perspective? Well, we saw it as
10 our opportunity to optimize revenues distributed to
11 California Thoroughbred interests including race
12 tracks, horsemen in the form of purses, breeders, but
13 yet to insure that there was a fair return and fair
14 compensation to our ADW distribution partners. That
15 is how we saw them was as partners.

16 Now, if you look at last year, the blended
17 rate -- the blended hub fee rate on live races for
18 the ADW providers was actually 5.71. That's the
19 blended rate, which produced on live races a recovery
20 to both track and purses that was somewhere between
21 an on track wager and a satellite wager. The
22 percentages were there.

23 And we reached that by TOC negotiating the
24 hub fees with ADW providers to do so. The same again
25 is true for imported Thoroughbred races. We

1 negotiated the hub fee.

2 In 2005, it meant that the industry again
3 received compensation somewhere between an on track
4 wager and at satellite facility wager. So, it was
5 again the process of negotiation between TOC and each
6 of the ADW providers including TVG.

7 Now, what is the effective control on the
8 hub fee rate? Well, if we look at the years 2002
9 through 2005 for TVG, those are the effective hub fee
10 rates that they were able to recover for California
11 Thoroughbred races for imported Thoroughbred races,
12 with a total hub fee of approximately 5.9.

13 Rather than the 6.5 percent that they asked
14 for, by giving them something less we actually saved
15 \$3,000,000 plus for California Thoroughbred tracks,
16 horsemen, and breeders, and by manipulating or not by
17 manipulating, but by negotiating a different hub fee
18 with all of the ADW companies, TOC saved again for
19 Thoroughbred tracks, horsemen in terms of purses, and
20 breeders over 8.6 million dollars in the first four
21 years that ADW has been there.

22 So, I'm going to repeat that between 2002
23 and 2005, TOC increased revenues to California
24 tracks, horsemen, and breeders by over 8.6 million
25 dollars by negotiating different hub fees with the

1 ADW providers.

2 Now, how does TOC measure the performance
3 of ADW? We have looked at six factors in particular.
4 One, the success in developing new fans. Two, an
5 increase in revenues because handle figures simply
6 really don't mean a whole lot -- is the key driver
7 here.

8 We try to analyze ADW performance in terms
9 of quantifying the shift and handle from satellite
10 or on track facilities to ADW companies.

11 We have also attempted to analyze whether
12 there has been cannibalization versus true growth.
13 We have also looked at expanded distribution of our
14 signals. Have these companies taken our signals to
15 new markets out of the State, and how many markets
16 are the in out of State?

17 And lastly, we have attempted evaluate
18 whether exclusive broadcaster wagering agreements
19 have generated greater revenue for certain partners.

20 Looking at the first one, success in
21 developing new fans. It's a little like interpreting
22 foreign languages, trying to figure out whether or
23 not there really has been any growth.

24 The simple fact is that no California
25 Thoroughbred race track other than Del Mar has

1 experienced increase attendance since ADW was
2 legalized in 2002. In fact, attendance figures
3 looked like this for the five primary Thoroughbred
4 meets. And you have an individual graph provided to
5 each you.

6 Del Mar is the top facility there. And you
7 can see that since 2002, their numbers have increased
8 while ever other association here has decreased.

9 The second series of factors are all
10 related. That is, increasing revenues, quantifying
11 the shift and handle, and cannibalization versus true
12 growth. And so, I have just a couple quick charts to
13 show you.

14 But before I do that, I want to say that we
15 look at handle and revenue both for 2001 and 2005.
16 It shows 2001 because that was the last year before
17 ADW was authorized, and 2005 because that was our
18 last completed year in which ADW occurred. We tried
19 to look at the change in relative percentages from
20 each of the sources, both for handle and revenue.

21 So, if we look at handle with the column on
22 the left being 2001 and the column on the right being
23 2005, this is handle in California on Thoroughbred
24 signals, that's both imported signals and live
25 racing.

1 We see that there was an increase of 3.5
2 percent overall, but that on track wagering decreased
3 by 12.2 percent, at least 12.2 percent, and off track
4 wagering was down by at least 12.8 percent.

5 So, whether that's -- we clearly see a
6 shift. Again there is an increase of 3.5 percent.
7 That's in nominal numbers. If you adjust for
8 inflation, that is actually a decrease in handle of
9 over 7.3 percent.

10 So, between 2001 and 2005 total handle on
11 Thoroughbred races in California has decreased in
12 real dollar terms adjusted for inflation by 7.3
13 percent.

14 Now, we look at purse revenues. And again,
15 this is in nominal numbers. While handle increased
16 3.5 percent, Thoroughbred purse revenues were
17 actually down 1.3 percent. And that is because you
18 saw hire return dollars on wagers placed on track,
19 where now ADW at a lower rate.

20 And despite the increase, they have not
21 offset the loss of dollars lost at the race track.
22 So, again adjusting from nominal terms of a loss of
23 1.3, the actual loss to purse revenues was over was
24 11 percent, 11.6 percent. These numbers are all
25 derived -- provided for by the CRIBS system. That is

1 the basis.

2 So, let's look at what has happened out of
3 state. In that time period, we've seen out of state
4 revenues on our races, on wagers placed on California
5 signals, handles has gone up 2.3 percent.

6 It is important to see though what the
7 sources of those increases were. Again a 2.3 percent
8 in handle, adjusted for inflation, that's an 8.3
9 percent decrease out of the state.

10 And again as I said I would like to look at
11 sources. What this chart shows you again, the column
12 on the left being 2001, the column on the right 2005,
13 is that our actual largest growth component out of
14 the state, the purple there, are the legal rebaters.
15 The legal rebaters have provided our greatest out of
16 state source of handle between 2001 and 2005.

17 If we look at purse revenues, in one sense
18 there is some good news in terms of purse revenues.
19 Purse revenues have increased in that period of time
20 by 11 percent.

21 Now, interestingly purse revenues derived
22 out of state are based on host fees charged for the
23 California signal. And I think our race track
24 partners will admit TOC has been largely setting the
25 price of the California Thoroughbred signal out of

1 state. And the process under the Interstate Horse
2 Racing Act requires our consent.

3 TOC has always conditioned our consent
4 differently than other states where they simply give
5 permission to a race track to send the signal. We
6 condition our consent on receiving a certain
7 percentage for the signal. We set the price out of
8 the state.

9 And by managing and analyzing these numbers
10 despite a small increase in handle, we have actually
11 increased the purse revenues by 11 percent in those
12 four years.

13 Now, unfortunately again adjusting for
14 inflation, while in nominal terms we have seen an
15 increase of 11 percent adjusted for inflation, it's
16 really been a half a percent decrease.

17 So, while we can somewhat proudly say we
18 have done an okay job, we have still have not kept up
19 with where we'd like to see purse revenues.

20 Of the last two figures or measures that we
21 use in judging ADW performance is expanded
22 distribution of signals in new and out of the state
23 markets.

24 And with regard to at least one ADW company
25 TVG, we sort of termed it the "Let Mikey Try It

1 Approach" to distribution of our signal out of the
2 state.

3 What do we mean by this? TVG, while
4 they've expanded cable and satellite distribution out
5 of state, they only accept wagers in a total of 12
6 states, one of them being California. I got this
7 list off their website two days ago.

8 Rather than distribute beyond 12 states,
9 they simply sublicense companies like You Bet and Win
10 Ticket, and charge those sublicensees a significant
11 fee for handling wagers on TVG signals.

12 Yet they do not charge the same sublicense
13 fees to the legal offshore rebaters. They continue
14 to allow them to operate without objecting to the
15 fact that both RGS and IRG and Totonkua, they do the
16 same thing that You Bet does. They do the same thing
17 that Win Ticket does.

18 They have telephone and Internet account
19 wagers that accept wagers from all through the US,
20 and yet TVG doesn't sublicense them. So, this
21 question of exclusivity, we see that they're applying
22 it sometimes with regard to You Bet and Win Ticket
23 and others, but they're not applying with regard to
24 the RGSSs, the Totonkua. There's probably eight more
25 companies I could list.

1 These are the 12 states that TVG's website
2 indicates that they are accepting wagers in. So,
3 again the California signal offered through TVG is
4 only going into 11 other states. The California
5 signal offered through Express Bet is going into a
6 total a 37 states.

7 If we look at You Bet, we have 39. It's my
8 understanding from the You Bet representatives they
9 actually take it to 40 states.

10 Now, again, in measuring ADW performance,
11 we look at how much revenue do each of these ADW
12 providers -- how much purse revenue do they generate
13 for the California Thoroughbred industry out of state
14 using our signals?

15 In 2005, You Bet was the leader. They
16 generated for Thoroughbred interests for Thoroughbred
17 purses over 1.1 million. Express Bet much aligned --
18 Express Bet generated for Thoroughbred interests here
19 in California. Last year they generated \$431,000,
20 slightly over that.

21 TVG using our signals out of state
22 generated for the entire year of 2005 less than
23 \$390,000 of purse revenue using our signal. So,
24 again, derived out of state, TVG generated less than
25 \$390,000 for California Thoroughbred horses last year

1 both for fairs and race tracks.

2 They sent, however, over 1.7 million
3 dollars to out of state interests for wagers placed
4 on out of state signals by Californians. So, again,
5 they brought into California, using our Thoroughbred
6 signal, less than \$390,000, and they sent out of
7 state over 1.7 million dollars.

8 Since 2002, since ADW has been licensed and
9 permitted in the State of California, both in state
10 and out of state wagers transacted or facilitated by
11 TVG, and as you can see, the large majority of that
12 has been in state. They have produced in the four
13 years approximately \$24,000,00 in purses with well
14 over 90 percent of that coming from within the State
15 of California.

16 At the same time on those same signals, our
17 California signals, hub fees paid to TVG has exceeded
18 \$30,000,000.

19 The last in this long presentation relates
20 to have exclusive broadcast wagering agreements
21 generated greater revenues. Our view is not for
22 California owners, breeders, or race tracks, as I
23 said year it was \$390,000 simply.

24 So-called exclusive arrangements have led
25 at least to TOC to concerns regarding possible

1 antitrust violations including tying arrangements,
2 and horizontal and vertical restraints to trade that
3 could be in violation with the Cartwright Act.

4 And TOC has called for the Horse Racing
5 Board to request the AG to investigate these concerns
6 and determine for us whether or not some of the
7 practices that have been engaged in by TVG do violate
8 the Cartwright Act.

9 And they would include not only the tying
10 arrangements, but arrangements under sublicense
11 agreements that may have the impact of price fixing
12 or allocation of commercial markets and possible
13 distributor relationships.

14 So, from TOC's perspective having gone
15 through these numbers, we have concerns. They
16 haven't delivered what we hoped they would deliver.
17 And we think that ADW needs a much closer look either
18 by this Board or by a committee of this Board.

19 And we hope that the CHRB will want ask to
20 seek the California Term General's office to
21 investigate the practices. And two, hold an in-depth
22 hearing on this subject and on this matter. Thank
23 you for your time. If there are any questions, I
24 would be glad to answer.

25 MR. SHAPIRO: Thank you. That was a very

1 impressive presentation. Does anybody on the Board
2 have any questions? It is a lot of material to try
3 to digest in 15 minutes, but I think that it is very
4 helpful for us to understand what the true economic
5 impact of ADW wagering has been.

6 And it would certainly allow us to look to
7 see how we would be able to utilize ADW more
8 effectively. Is there anybody else in the audience
9 that would like to address this matter?

10 MR. HINDMAN: Good morning, Commissioner
11 Shapiro and members of the commissioner. I'm John
12 Hindman, Vice-president and general counsel to TVG.
13 Tony Alamato is handing just a very short
14 presentation, just a few slides to run through, kind
15 of give you an overview of how we think we are going,
16 and some of the benefits that our relationship with
17 the California Racing Association have brought back
18 to your partners and to the industry.

19 Starting on the first page, we'll talk a
20 little bit about TVG has relationships with five --
21 California Racing Association -- and I've used here
22 for purposes of comparison 2001 to 2004 based on the
23 CHRB's annual report.

24 As you can see, in that time period
25 national handle, all tracks across the country, all

1 sources handle accrued 3.4 percent. All sources
2 handle on California tracks accrued 5 percent.

3 Within that amount, you can see that for
4 TVG's exclusive California tracks, handle increased
5 8.19 percent, which is more than twice the national
6 rate of growth.

7 Turn to your next slide. You can see a
8 similar chart regarding purse revenues from TVG's
9 exclusive tracks -- in California. As you can see,
10 on the national level, purses from 2001 to 2004
11 increased 2.3 percent.

12 California purses total also increased 2.3
13 percent versus TVG's exclusive tracks increased 4.75
14 percent. Again, twice the national rate of growth.

15 Turn to your next slide. Let's talk about
16 what we view are some of the reasons for success in
17 this area. The first is, we believe is our
18 television coverage. TVG televises over 5,000
19 California races a year into 18 million households
20 nationwide.

21 TVG is available to 100 percent of
22 California households if they elect to get it. And
23 TVG is available to 50 states on Direct TV and Echo
24 Star, both national -- providers, and in 38 states
25 via cable.

1 Second point is ADW from our view and from
2 what we think the numbers tell has been more
3 productive in California than any other jurisdiction
4 in the United States in just four short years.

5 So far it has created \$1,000,000,000 in
6 total wagering over that time and increased wagering
7 on an annual basis than jurisdictions that have had
8 ADW for 20 to 30 years -- and New York.

9 And over one \$140,000,000 in revenue has
10 been returned to the California racing industry
11 pursuant to California Business and Professions Code
12 Section 19604.

13 TVG has performed well. We have the most
14 TV distribution and the most ADW handle. When we
15 were before you in January 2002, we stressed the
16 importance of television and stressed our plans to
17 significantly increase television distribution.

18 Since that time our, television
19 distribution has grown about 150 percent from
20 approximately seven and a half million houses to over
21 17 and a half million households today.

22 In terms of California ADW, we generated
23 more handle, and therefore more revenue got to the
24 racing industry than the other licensees combined. I
25 would like to invite Tony Alamato up here for a

1 moment to discuss our horse racing coverage and some
2 of the impacts that are relationships with California
3 race tracks have from our business.

4 MR. ALAMATO: Tony Alamoto, Senior
5 Vice-president and Executive of TVG. I'm just going
6 to talk briefly about programming because I think
7 that is my area of expertise obviously. And it is
8 also one of the strikes of our network.

9 TVG, we believe, has set the standard in
10 horse racing coverage. Although, we would like to
11 get a lot better and we are working towards that. We
12 broadcast live 14 plus hours a day promoting all the
13 popular races around the country.

14 We televise live from 16 different tracks
15 around the world. We have exclusive rights, and
16 that's one of the things we're talking about today is
17 exclusivity.

18 Exclusive rights to over 20 tracks around
19 the world, including Churchill Downs, Belmont Park,
20 Del Mar, Hollywood Park, Kingman, Oak Tree, Santa
21 Anita, Los Alamitos, and Saratoga. And just last
22 year we added Japanese Racing Association as an
23 exclusive partner -- successful Japanese racing, yet
24 they chose to do an exclusive deal with TVG.

25 We provide race analysis, betting

1 strategies. You're all familiar with our
2 programming, so I won't go too in depth about it.

3 This April, TVG will be relaunching our
4 network with a brand new graphics design and a series
5 of shows are going to be geared towards getting new
6 fans interested in horse racing. And we're excited
7 about that.

8 Why is exclusive important for TVG? Well,
9 TVG has to compete with hundreds of television
10 networks all of which feature exclusive content.
11 Distribution of -- depend on the ability for TVG to
12 offer a unique product in an increasingly crowded
13 television world.

14 If you look at TVG's model, it is the same
15 as the model that is adopted by other networks that
16 feature NASCAR, PGA, NFL, NBA, and every other form
17 of sports and entertainment programming in the United
18 States.

19 To put it simply, during college football
20 season when I turn on my TV on Saturday morning, I
21 don't see the Notre Dame football game on channel 2,
22 channel 4, channel 5, channel 7, and ESPN. It's just
23 not the way it is done in sports television.

24 The continued success of great success in
25 television and ADW business is dependent on the

1 continuation of TVG's model. Loss of exclusivity
2 creates a freerider program eliminating TVG's
3 incentive to invest in television programming and
4 distribution.

5 And to put that in simple terms, what that
6 means is if TVG is televising races that every other
7 ADW and the country can take wagering on, and we are
8 not receiving compensation for that, there is no
9 incentive for TVG to produce quality television.

10 At that point, you are better off just
11 doing an Internet company, because other people are
12 freeriding off of your programming, they have no
13 overhead, and they're the ones who are capitalizing
14 on your programs.

15 If TVG were to lose exclusivity in
16 California, this would result in a shift of our
17 programming technology to exclusive tracks, which
18 means that you see less production from the race
19 tracks that we do in California.

20 Interference with TVG's exclusive
21 relationships with California tracks would not
22 result -- would not be in the best interest of
23 California racing.

24 We believe that TVG's business model is
25 proven. It enables the broadcast television

1 distribution for horse racing. All of our
2 distribution deals in the country are done it because
3 of our exclusive deals. It provides incentive for us
4 to create quality television programming.

5 It generates a high rate of return to the
6 racing industry, and it consistently generates the
7 highest growth rates for wagering in the racing
8 industry and the most volume in wagering.

9 MR. SHAPIRO: Thank you.

10 MR. ALAMATO: Any questions?

11 MR. SHAPIRO: Yes. If I could as, I don't
12 know, both you. First of all, I don't think -- at
13 least from my perspective, I don't question the
14 excellence of your TV coverage. It is unparalleled.
15 I mean, you guys do great things. Your TV is
16 fantastic. I'm an avid watcher.

17 So, I just want to thank you and compliment
18 you. I think your TV is great. I see that show you
19 do at Los Alamitos. I see all the things you've
20 done. You went live. I forget what it's called.
21 Live Access, I think, at Del Mar, and the Eclipse
22 Award. You guys do wonderful job there.

23 The difference, though, is that when you
24 look -- or when you hear the data from TOC and you
25 look at what you are talking about, and I know much

1 about television, but I'm learning, okay.

2 When I see that TV models are the same as
3 models docked by the networks, NASCAR, PGA, et
4 cetera, I'm assuming that they provide advertising
5 revenue, which is the economic engine that allows
6 them to do that.

7 And unfortunately for reasons I don't know,
8 there isn't enough advising revenue to support TVG.
9 And so, you are a wagering company. I ask this to
10 try and understand it better.

11 But when you hear that TVG only accept -- I
12 appreciate that you are broadcasting in 50 states,
13 but you are only accepting wagers in 12 states.

14 MR. ALAMATO: But our licensees are
15 accepting wagers in all these states. So, whatever
16 rates it's showing on TVG --

17 MR. SHAPIRO: I'm not done yet. I
18 understand that you have licensees that are then
19 covering that. But you are having to -- those
20 licensees are having to pay you a fee for that
21 signal, which means that there is less revenue then
22 for them or you to give back to the industry so that
23 there would be more moneys available to help the
24 track, and the horsemen, and the purses.

25 Again, the idea here is how can the

1 industry work to get the most out of ADW and you guys
2 make a profit and you guys exist. I'm not trying
3 to -- this is not one company over another.

4 But when you hear the statistics, racing is
5 in trouble. It has -- California has to get its
6 purse revenues up.

7 Now, I hear the argument over exclusive
8 tracks. But if they weren't exclusive tracks and it
9 was open to other people that might pay more to have
10 a competitive factor involved, wouldn't racing be
11 better if somebody else was willing to pay more that
12 would result in more to the tracks and more to the
13 purses.

14 Again, this is a discussion. I'm not
15 coming -- this is not a conclusion. But how does it
16 translate into dollars to benefit the horse racing
17 industry in California, because that is all I care
18 about.

19 MR. HINDMAN: To cover a few of your
20 remarks, I think you're right. TVG is reliant on
21 wagering revenues to pay for television. Other
22 networks are relying on advertising. But the point
23 is, you have to have a secure revenue stream to pay
24 for the costs of producing and distributing
25 television.

1 And we feel it is the most important
2 component. We well the last five years has had the
3 highest and most consistent growth rates. We feel
4 that it is working in bringing new fans to the sport.

5 We also have a licensing program with our
6 two licensees. Together, TVG has two licensees --
7 are the three largest ADWs in the United States.

8 Anybody in any state where it's remotely
9 possible to bet on California races signal through
10 ADW can do it today. Those three companies represent
11 about a billion dollars in handle a year. Their
12 combined growth rate is well over 20 percent. TVG's
13 growth rate is well over 30 percent.

14 So, what we are arguing -- what we're
15 saying is this model is working. This model has
16 worked. It will continue to work. it's creating the
17 highest growth available in the industry.

18 We agree we need to maximize ADW, but what
19 we are saying to you is, we believe very strongly
20 that you have to build an engine market and promote
21 racing to get ADW out there. And we are doing that.
22 And we feel very strongly it's working for the
23 industry.

24 I think the stats bear it out. And you
25 were talking about revenue. I think the fact that

1 TVG's exclusive tracks in California, the fact that
2 their revenues are growing twice as fast as the
3 national rate, which includes tracks that have
4 revenues from alternative gaming. I think we're off
5 to a good start.

6 And so, from our perspective, we feel very
7 good. We feel very optimistic about the future, and
8 we feel that system is working very well. Thank you.

9 MR. ALDRIDGE: Ed Aldridge, Los Alamitos
10 Chairman. As most of you know I'm a TVG buff and
11 supporter and for a lot of good reasons. Some of
12 them are unique to my situation, our situation.

13 And so, I do not want to address all of the
14 things involved in the Thoroughbred industry except
15 to say that Mr. Couto's impressive presentation, it's
16 like all things of that type, one has to look at the
17 whole picture.

18 There are obviously a lot of reasons far
19 beyond the influence of account wagering that have
20 over the last four to five years have impacted all of
21 us in racing. They include horse competition,
22 offshore book making, card rooms in the casinos, gas
23 prices, traffic, all of those things take their toll.
24 It's not as simple as analyzing, and I know that
25 everybody knows that. But I think it's worth at

1 least mentioning that.

2 We are in no way interested in having
3 anything but an exclusive provider. In a large
4 company, Newscorp with assets are unbelievable has
5 come into the picture and has lost who knows how much
6 money over the last five years in getting this model
7 off the ground.

8 We have been talking for the last 15 years
9 that we have to like baseball, basketball. We have
10 to get television exposure. That's what it's all
11 about. We are getting television exposure. It's
12 increasing all the time.

13 You take this away from them, there won't
14 be any television exposure, at least for California
15 racing. Why would they do it and allow everybody
16 else to suck the blood out of the them and not spend
17 the kind of money it takes to have it up there. It's
18 expensive.

19 True, TVG has taken a very conservative
20 position in trying to expand the California
21 Thoroughbred and -- signals into other states. There
22 are large companies with very deep pockets. And many
23 have -- I don't know the reasons exactly. I've been
24 told.

25 And then you have reasons to believe that

1 aggressive attorney generals in some states where
2 it's a gray area. There's no -- or enabling
3 legislation, and they have deep pockets. I would
4 suspect that is the reason. Hopefully that can be
5 overcome in the coming years so that there will be a
6 great increase in the direct use of TVG and not
7 through their licenses to other betting companies.

8 So, we are so happy with what has happened.
9 People can race horses -- and for so many different
10 reasons, people in Texas and Oklahoma can race horses
11 in California now that never would have before
12 because they can watch them live, and they might --

13 So, for that reason that's a very important
14 reason for us. We were struggling. We have
15 prospered under this thing. It is an increasingly
16 large part of our handle every day.

17 Our pick four bet has gone from \$8,000 to
18 several times over a hundred thousand and always over
19 of \$50,000, and usually in the range of \$70- to
20 \$80,000. Our pick four bet has come from obscurity,
21 because they've taken under their wing.

22 They've done this actually -- all
23 California tracks' pick four bet has expanded
24 greatly. And I think it is largely because of the
25 influence of TVG. And a lot of it's money -- the

1 overwhelming share in our case comes from account
2 wagering.

3 So, I just couldn't -- I am so grateful to
4 them. I think we should all be grateful to them. We
5 recognize they have some work to do in expanding
6 California signal out of state both for -- that's
7 something they need to work on.

8 Whether or not the fees are correct are all
9 subject to review and negotiation over time and
10 everything. That can be done. I'm perfectly happy
11 with the arrangement we have.

12 So, I can't say enough about them. We love
13 them. We'd die without them. That is all I can tell
14 you.

15 MR. SHAPIRO: Thank you.

16 MR. SCHIFFER: Dan Q. Schiffer for the
17 BCQHRA, and I'm here echo the comments of
18 Mr. Aldridge. TVG has taken the Quarter horse night
19 racing out of the dark ages and into the public
20 living room. It is a tremendous boom for the Quarter
21 horse and our industry, and we are truly indebted to
22 them whatever their shortcomings.

23 So, we ask that the Board and all others
24 consider what they have done, and the chances they
25 have taken in doing that. Thank you.

1 MR. SHAPIRO: Are there any other ADW --

2 MR. SHREWD: Mr. Chairman, Jeff Shrewd
3 representing UBet.com. I'm here to obviously talk
4 about the issue with Drew and the previous speakers.
5 There are probably a couple of ones that ought to
6 clean up from our perspective.

7 I want to commend Mr. Couto for his
8 presentation. He brought to light a lot of important
9 facts that are difficult to understand and difficult
10 to put into this kind of setting.

11 One of the things that was said, however,
12 that I need clear up with regards to the rebate
13 shops, there is no licensing fee drawn by TVG for the
14 IRG and RGS companies because those contracts dealt
15 directly between those "rebate shops," RGS and IRG
16 and the track. Because it is telephone only, there
17 is no streaming. So, it is a contract that TVG
18 doesn't have a hand in.

19 However, TVG does have a hand in a lot of
20 other contracts and has a hand in a lot of other
21 agreements between ADW providers and race tracks.

22 And really this whole conversation to me is
23 about competition. It is about competition between
24 the ADW providers. It is competition between the
25 industries of different states against one another.

1 Indeed it's about the competition of an
2 industry against other industries -- other sports
3 industries. Horse racing is competing against other
4 sports.

5 So, when we look at that competition, you
6 say You Bet right now, because of the exclusivity,
7 has a competitive advantage. You Bet has the
8 broadest offering of content, the broadest offering
9 of race tracks of any ADW in the country.

10 We have virtually everything there is
11 running. There are two or three minor exceptions.
12 But I got to tell you, we're paying for that
13 exclusivity.

14 We have paid since 2002 over \$68,000,000 to
15 companies which are holding exclusive licenses on
16 track content. TVG reports their earnings. We're 25
17 percent or better than TVG's earnings.

18 So, the competitive nature of this business
19 has created this exclusive model. TVG says the
20 exclusive model is working for them. Well, it's not
21 working for the sublicensees, I can tell you.

22 And while we're on the subject of
23 exclusivity, Tony talks about you got to have
24 exclusivity to make TV work. That's the way the
25 thing works. And the advertising models are supposed

1 to help support those exclusive arrangements.

2 PGA is on all three networks, ABC, CBS,
3 NBC. NFL is on FOX and CBS. Why don't they
4 advertising revenues? Because they don't have any
5 coverage. They don't have enough coverage to get a
6 rating point.

7 You know who first put horse racing on TV
8 in southern California, specifically on FOX? It was
9 Santa Anita. And why hasn't Santa Anita shown in the
10 afternoons of live racing on FOX Sports West?
11 Because those exclusive arrangements that keep them
12 out.

13 We think exclusivity is bad for racing. It
14 stifles competition. The competition that this
15 industry has to rely on to succeed in the sports
16 world, exclusivity has done nothing but create a
17 false subsidy for a bad model. And that bad model is
18 TVG. It doesn't work.

19 TVG is not the only one, I can tell you.
20 Magna tried to do the same thing to us in 2005, and
21 if it weren't for TOC, and I'll thank them again
22 publicly, TOC came and said no, wait a minute. We
23 got to have broader distribution for our signal. You
24 guys cannot have -- product in California or nobody
25 is going to have it. I thank TOC for that.

1 They came in and stepped up and fixed what
2 would be an otherwise darker cloud hanging over the
3 California racing program. So, Magna attempted it,
4 and got it fixed. TVG has executed -- we paid them
5 literally dozens of millions of dollars to subsidize
6 their bad programs. And we see no handle differences
7 when TVG is Televising a race.

8 I mean, they talk about the reason that the
9 sublicense fees are paid is because we are riding
10 their coattails of TV. It's ridiculous. There is no
11 handle difference when Hollywood Park's eighth race
12 is on. There's no handle difference in Texas, or
13 Ohio, or Kentucky.

14 We go out and recruit those customers,
15 develop them. We spend more money in new customer
16 recruitment than any of the ADWs. In fact, I would
17 venture to guess all of them combined. Seven figures
18 a year in new fan recruitment outside the horse
19 racing industry.

20 We, UBet.com, is the leading ADW in the
21 country by handle. A third of our business comes
22 from California. You saw the numbers that TOC put
23 up, three times the amount of purse revenues in the
24 State of California. All of that in spite of these
25 exclusive deals.

1 What I'm telling you is that the
2 competition is the key here. You've got to create a
3 level playing field for all ADWs to compete fairly
4 with the content at hand, to compete on the features
5 and functionality and marketing crowns. And we are
6 not going to fix it here today.

7 I brought four gentleman -- three other
8 gentlemen here to introduce to you. The Chairman,
9 CEO of UBet.com, Charles Champion, CFO Gary Strewl,
10 General Counsel, Scott Solomon, our -- Lavarigani
11 Poul. We're here to show you that we're ready that
12 we're ready to roll up our sleeves and fix this
13 problem together with TOC, together with Magna,
14 together with TVG, and together with you.

15 We've got to fix this model before it
16 crashes, because it's not working for anybody but
17 TVG, and I dare say that it may not be working for
18 TVG very long. I yield to questions, Mr. Chairman.

19 MR. SHAPIRO: Thank you for your comments.
20 I appreciate it.

21 MR. ALAMATO: Tony Alamoto again, TVG. I
22 just want to address a couple points. First off, I
23 appreciate the education of television from Jeff
24 Shrewd. I'll be looking forward to watching the
25 Superbowl in a few weeks on any TV network I choose.

1 MR. SHAPIRO: Okay. Okay.

2 MR. ALAMATO: I also would like to say
3 that it was mentioned that televised races, that
4 there is no impact on races being televised by TVG.
5 That is flat out not true. We know for a fact that
6 ADW handle is up to ten times as high on a racing we
7 show and the racing we do not show. So, there is a
8 difference there.

9 Another issue that was brought up is the
10 fact that we have a FOX show every day. There were
11 FOX shows on locally in the past up to an hour a day.
12 We do shows now that are up to three hours a day for
13 major events like the -- four hours a day.

14 Santa Anita was being shown on FOX and
15 Santa Anita would be shown on FOX if they were an
16 exclusive or nonexclusive track of TVG. They choose
17 not to be.

18 And I think the big issue here is racing
19 really needs to decide what the big picture is here.
20 Are we trying to fight over every crumb, or are we
21 trying to help the sport grow, not just from a
22 wagering standpoint, but from a marketing standpoint.

23 TVG presents the opportunity for horse
24 racing to have a 24-hour a day marketing tool in
25 California racing specifically. We believe that we

1 do have better race tracks. That's what you get with
2 TVG aside from just home wagering.

3 MR. SHAPIRO: Tony, again, this forum today
4 is really meant to try and understand and hear from
5 various parties, okay. So, I don't think anybody
6 needs to refute other people's facts. I understand
7 you have a different opinion. I don't have a problem
8 with that.

9 And again, I certainly appreciate the
10 television that TVG does. No one is questioning the
11 great television that you do.

12 MR. ALAMATO: Commissioner Shapiro, it's
13 important to keep in mind that the wagering and
14 television go hand-in-hand. If people think that the
15 wagering component is going to go away and TVG is
16 going to continue to produce the same quality
17 programming that we're producing now and that we
18 expect to get better, it's not going to happen.

19 MR. SHAPIRO: Thank you.

20 MR. HARRIS: Sorry to interrupt. I'm not
21 really clear. It seems, say with the You Bet
22 example, they essentially don't get anything from a
23 bet made in California by a Californian on a
24 California race. It all goes to TVG. What incentive
25 do they have to really grow their --

1 MR. ALAMATO: John Hindman can address that
2 better than I can. I'm just the TV guy.

3 MR. HINDMAN: I would make two points about
4 that. I think if you look at You Bet's business and
5 their -- as seen on an overall basis, their yield,
6 the percentage they keep from a bet after paying TVG
7 is higher than TVG's. So, they're keeping --

8 MR. SHAPIRO: On a California wager?

9 MR. HINDMAN: I'm talking about for their
10 company.

11 MR. HARRIS: As I understood, they don't
12 get anything on a California wager.

13 MR. HINDMAN: On TVG tracks?

14 MR. SHAPIRO: Yes.

15 MR. HINDMAN: Yes, well, I mean they pay
16 different royalties to different people.

17 MR. SHAPIRO: No, answer his question.

18 MR. HINDMAN: I did.

19 MR. SHAPIRO: I didn't hear the answer.

20 MR. HINDMAN: I was talking -- he is
21 correct on an overall basis.

22 MR. SHAPIRO: So, he's correct. On a
23 California track -- exclusive track, You Bet accepts
24 the wager, they don't make any money; is that
25 correct?

1 MR. HINDMAN: That is correct, yes. And
2 the other point I wanted to make is looking at the
3 handle situation and everything else. I know that we
4 are not here to refute each other, but I do know that
5 You Bet does carry a couple hundred race tracks.
6 They carry more tracks than anybody.

7 And they carry about -- somewhere in the
8 neighborhood of 20- that they give -- in relationship
9 from us. In any given quarter, a percentage of their
10 handle, second, third, and fourth quarter of the
11 year, they're from our basket of the tracks -- is 50
12 percent. So, it's a very large proportion of their
13 handle that they're deriving --

14 MR. SHAPIRO: That may be. But again, we
15 are concerned what dollars end up in California
16 benefiting the California industry.

17 MR. HINDMAN: I understand.

18 MR. MORRETTI: Can I ask you a question?
19 John, sorry. And I would like to thank everyone who
20 presented because this is very informative, and it is
21 a complex issue. But I do have a real basic
22 question, and I have -- I understand the exclusivity
23 and reciprocal and all of that.

24 However, is it true that California signals
25 only go to 12 states, but the other companies sends

1 out to 37 states?

2 MR. HINDMAN: No, I think --

3 MR. SHAPIRO: Are you asking, is it true
4 that TVG is only accepting wagers in 12 states on
5 California --

6 MR. HARRIS: If they're a licensee, which
7 is You Bet --

8 MR. SHAPIRO: That's correct. I understand
9 they're licensees, but they're charging then a fee to
10 that licensee, which means if there is less revenue
11 that can come back to California, because they're
12 having to pay sublicense fee.

13 So, the question first question is, is it
14 true that you only accept wagers in 12 states?

15 MR. HINDMAN: Yes.

16 MR. SHAPIRO: Yes, okay. And you license
17 your signal to -- let's just use You Bet because
18 they're here. You Bet pays you something for that
19 signal; is that correct?

20 MR. HINDMAN: Yes.

21 MR. SHAPIRO: Okay. If there wasn't a You
22 Bet, and this is theoretical, if there wasn't a You
23 Bet and you decided to accept wagers in all the
24 places that You Bet did, you would either make more
25 money or we say no, pay the horse men, pay the

1 industry that money, there would be more coming into
2 the industry; is that not correct?

3 MR. HARRIS: I don't think -- I think it's
4 neutral to California purses and commissions if
5 someone bets on TVG.

6 MR. SHAPIRO: No, that's not my point. My
7 point is that you are charging You Bet a fee for your
8 signal. You Bet in turn makes an agreement with the
9 tracks and the horsemen in California for the
10 California product that they're accepting wagers on.

11 They have to take into account what they
12 have to pay you, which then tells them how much they
13 can afford to pay the horsemen and the tracks; is
14 that right?

15 MR. HINDMAN: There is no difference
16 between what a -- to my knowledge and understanding
17 what the California tracks --

18 MR. SHAPIRO: Well, then let's ask You
19 Bet --

20 MR. HINDMAN: No, -- if TVG took the bet or
21 You Bet took the bet.

22 MR. HARRIS: The problem is between You Bet
23 and TVG is essentially the license fee is the total
24 amount of the hub fee.

25 MR. SHAPIRO: No, but I guess what I'm

1 saying is TVG could accept a lower hub fee, okay. If
2 you were accepting wagers directly and there wasn't a
3 middleman, wouldn't you be able to conversely -- You
4 Bet just accepted to -- if they didn't have to pay
5 you a fee, they would be able pay more money back to
6 the tracks and horsemen; isn't that true?

7 MR. HINDMAN: Actually --

8 MR. SHAPIRO: No? Let's ask You Bet.

9 MR. HINDMAN: I mean, we are speaking in
10 hypotheticals.

11 MR. COUTO: Actually, we're not speaking in
12 hypotheticals. I can't reveal the rates, but I will
13 tell you this, there are certain states that TVG
14 considers exclusives that You Bet, I'll let Chuck
15 come up and tell you, must pay them a fee whenever
16 they accept a wager on a California track.

17 Let's look at this. Let's look at three
18 different ADW companies, TVG, You Bet, and American
19 Tab. They can each handle wagers on TVG's exclusive
20 tracks. If TVG handles wager, they pay us X.

21 If You Bet handles that same wager in a
22 non-TVG state, it's a Del Mar race, they handle it in
23 a non-TVG state, they pay us X plus 80 percent. If
24 they handle that same wager in a TVG state, they only
25 pay us X.

1 The third company, American Tab, if they
2 handle a Del Mar wager in a non-TVG state, they pay X
3 times two and a half.

4 If they take that same wager in a TVG
5 state, they pay us X. So, there's a huge difference
6 because of the exclusivity that we get on the same
7 signal depending on what state it is occurring.

8 Now, the funny thing is, TVG is
9 distributing the audio-visual in all of those states,
10 but there's only certain states that they can claim
11 as exclusive states for the 12 up there.

12 So, there's a huge difference in return to
13 our industry. There's a huge difference, as is there
14 is a huge cost to You Bet when they have to pay TVG.
15 The yield on a California wager, I'll let Chuck talk
16 to you about this, to You Bet in an exclusive state
17 is almost nothing.

18 And as any business is making nothing
19 selling a product, they're going to be forced to sell
20 something else in order to make money, just as, and
21 this is the last part, just as when TVG does not have
22 California product, when they don't have Santa Anita,
23 when Bay Meadows shuts down on that seven, TVG will
24 have no California product.

25 And what they will do is drive their

1 players, Californians included, to the products,
2 which means they will drive them, we see it every
3 year, to non-California races. And we will receive
4 less.

5 All we are trying to do -- and this is a
6 matter of negotiation between the parties. It's not
7 really regulation. We are trying to protect
8 California signals to maximize what's being returned.
9 I'll let Chuck address the economic issues for them.

10 MR. CHAMPION: Chuck Champion, Chairman,
11 CEO of UBet.com. Just to clarify a couple things
12 about the economics in California. It is in fact
13 true that any wager that we take on a TVG track in
14 the State of California yields us nearly nothing.
15 Our overall average in the State of California is
16 about 1.6 percent total.

17 We are required according to our sublicense
18 agreement that we signed with TVG approximately a
19 maximum of 8.5 percent on any wager that we take on a
20 TVG track. That consists of five and a half points
21 to TVG, and three points to the host track -- or 3.5
22 percent to the horse track and five percent to TVG.

23 In fact, and I can't comment too much on
24 this because we're in litigation now in Delaware over
25 this very issue because there is a supplemental host

1 fee that we're required to pay in California to get
2 our content on TVG tracks.

3 TVG's position is litigation is that is not
4 a host fee. It is a supplemental host fee. It has
5 nothing to do with host fee. We basically owe them
6 another three million dollars for the rights to take
7 the content out of California. In essence, TVG is
8 telling us that we should in fact go Negative on
9 bets.

10 MR. SHAPIRO: What is this supplemental
11 host fee?

12 MR. CHAMPION: The supplemental host fee is
13 the relationship between the track and the
14 horsemen -- that You Bet is required to pay to the
15 track in order to receive the signal.

16 And there is a relationship between the
17 track and the relationship between the horsemen, and
18 wherefore You Bet to receive the signal. We believe
19 it is part of our agreement. TVG's position is it's
20 exclusive. It's not part of the agreement.

21 So, again, I can't get into too much of the
22 legal discussion, but I think it's suffices to say by
23 their behavior that they not only believe that we
24 should in fact make zero on the signal in California,
25 we should go negative on the signal in California.

1 Now, what You Bet has done over the last
2 three and half years that I have been with the
3 company in 2002 is try to maintain a relationship
4 within California, where California racing would be
5 the most productive -- that you can find.

6 We believe in California racing. We think
7 it is critically important. And we understand it's
8 in trouble. Our fastest growing customer segment at
9 You Bet is 21 to 30 year olds. It's because we
10 market pop site with ESPN.com and CBS. And we are
11 spending millions of dollars to develop that market,
12 because we think it is important.

13 We also curtail any and all marketing
14 efforts within 25 miles of a race track because
15 cannibalization is important to us as well. You
16 basically have told us what we need to do as an ADW
17 provider in California and how we can be productive,
18 and we've tried to do that.

19 We've minimized the amount of handleship
20 from California by Californians -- or California
21 content, and by non-Californians, because we think
22 that California racing is in trouble.

23 But frankly, on other tracks where we have
24 low yields, we have marketing programs in place that
25 move customers from low yield tracks to higher yield

1 tracks. I've got a responsibility as a public
2 company to maximize revenues to the best of my
3 ability. And we have in fact done that.

4 So, when John Hindman talks about out
5 margins being in 67 percent rate, he's absolutely
6 correct. That is true. I can't tell you whether
7 they're greater than his or not, because all of his
8 financial quite frankly are not disclosed are not
9 disclosed.

10 So, his revenues, his handle numbers -- his
11 handle numbers are disclosed. His revenues are not
12 disclosed. His yield numbers are not disclosed. But
13 it means that what I'm doing is I'm promoting harness
14 tracks that have larger take outs and where we have
15 more favorable --

16 It means that I'm promoting tracks in other
17 states where I'm not paying these fees. It means
18 that I am promoting those. And it means by promoting
19 one, I'm not promoting others.

20 So, I can't comment on whether or not the
21 issues that Drew had brought up about antitrust are
22 accurate or not. But I can tell you that the effects
23 of these relationships have the same outcomes. It
24 inhibits our ability to promote California to the
25 extent we want to. And it affects California racing.

1 Now, having \$65,000,000 for the privilege
2 of having these exclusives, I'll tell that if you
3 leave them in place, we will try to do our best to
4 take advantage of that and to promote California and
5 to do what we can within the limits that we have.

6 We're not up here asking you to get rid of
7 those exclusivities, because we pay for them. They
8 are an advantage. I fully admit that. We use it
9 because we have all the content.

10 But I'll also tell you that we truly
11 believe that they are the worst thing that can occur
12 in this industry. You need to have as much
13 distribution of this signal as possible. Not to have
14 it on Express Bet is not in California's interest.
15 It will hurt us. Be very clear, giving content that
16 now does not go on Express Bet to Express Bet is
17 going to hurt You Bet. There will be
18 cannibalization.

19 And we in fact will suffer as a result of
20 it. But it is undeniable that the tracks will enjoy
21 a benefit and horsemen will enjoy a benefit. Purses
22 will increase, and likely handle will increase
23 because the content is better on that platform. So,
24 now I will yield to questions that the Board may
25 have.

1 MR. SHAPIRO: Well, I think it is very
2 informative. And again -- I don't know if anybody
3 from Express Bet is here. I would like to Express
4 Bet, but -- oh, you're right there. I'd like to get
5 a million dollars dropped in my lap also.

6 Thank you, Mr. Champion.

7 MR. DURY: Scott Dury on behalf of Magna
8 Entertainment. I know this gone on for a while, so I
9 will be very brief with my comments. We believe the
10 exclusivity model is bad for the industry. I say
11 that with two different hats on.

12 I say that with my race track hat on behalf
13 of Santa Anita and Golden Gate Fields. We would as
14 broad distribution as possible. I also say with my
15 Express Bet hat on that Express Bet doesn't believe
16 the exclusivity model is good for the industry.

17 Now, Mr. Shrewd made a comment earlier that
18 at one point several years ago we were attempting an
19 exclusive model ourself, somewhat in defense to the
20 position TVG was taking, and you know what, we
21 learned from out mistake. It just doesn't work.
22 It's not good for the industry. It's not good for
23 the horsemen.

24 And it's particularly not good for the
25 fans. They're the one group who is not represented

1 here today, but let's remember the complaint that we
2 all hear all the time. How come I have to have a TVG
3 account to get Hollywood Park, but this account to
4 get Santa Anita, and how come with You Bet I can get
5 both? It doesn't make any sense why don't all the
6 providers have all the content. That's what we
7 believe makes the most sense. Let's let the market
8 decide. If Express Bet fails and TVG prospers
9 because they have a better product, so be it. Let's
10 just make it a level playing field. That's basically
11 it.

12 MR. SHAPIRO: You are you like TVG are in
13 the TV business. What we have heard is that the TV
14 business requires that you have these exclusive
15 arrangements to distribute the product exclusively.

16 Now, you are in the TV business. If there
17 was -- do you also take the same position that -- you
18 are in 37 states or something like that. And if you
19 had the distribution that they have, would you
20 require that there be this exclusive arrangement so
21 you would broadcast TV to all the states and similar
22 to what TVG does today?

23 MR. DURY: Well, we don't agree with them
24 quite honestly. And you made the comment earlier,
25 which is we believe one hundred percent accurate our

1 industry is a wagering driven industry. We are not
2 an advertising driven industry.

3 So, my answer would be different if we were
4 making all the money on advertising but we're not.
5 Given that we are driven by wagering, if there's two
6 channels someone can go to and wager on, all the
7 better.

8 It's also -- we can't forget how many race
9 tracks there are out there. It's not that if -- you
10 can have two channels showing different race tracks
11 for that matter. If everybody could wager on both
12 tracks, doesn't necessarily mean that you would be
13 showing the signal at the same time on both stations.
14 You could be showing different signals.

15 But the important part is let's do what the
16 fans tell us they want. Let's let our fans decide if
17 they want to sign up for You Bet, Express Bet, or TVG
18 and once they've signed up and they're with a
19 provider they like, let them bet everything.

20 MR. SHAPIRO: Am I also correct in my
21 understanding that -- let's use Del Mar or Hollywood
22 Park, an exclusive TVG track, okay. It's exclusive.
23 They get to do the television. They promote their
24 wager. Why can't Express Bet -- is the exclusive
25 that says Express Bet can't even accept a wager on

1 that because they have the exclusive content?

2 MR. DURY: Correct.

3 MR. HARRIS: I'm not clear a Magna's
4 position that you don't feel exclusive contracts are
5 good, but don't you require exclusive contracts now
6 on your own tracks?

7 MR. DURY: No, we don't. We provide our
8 content to You Bet. We provide -- and this doesn't
9 apply to California because they're not licensed in
10 California, but we provide our content to America
11 Tab. We provide our content to Connecticut Oak TV.
12 We provide our content to Philadelphia Park Phone
13 Bet.

14 There may be some I'm forgetting off the
15 top of my head, but Magna tracks are available to
16 other account wagering providers. We did several
17 years ago have -- again, we tried out the exclusive
18 model. We heard loudly and clearly from our partner
19 horsemen from various regulators across the country
20 and most importantly from the fans that they didn't
21 like that model. So, we discontinued that.

22 MR. HARRIS: And the right to achieve that
23 exclusivity say for You Bet as I understood is
24 basically the whole thing. Basically You Bet is
25 similar with Express Bet. They don't make money on a

1 California bet.

2 MR. DURY: You Bet is not forcing the
3 exclusivity. What You Bet has done is they've gone
4 to party who holds the exclusive right and said let
5 me sublicense it, and they were told, fine, you can
6 sublicense it, but in return we want all your money
7 so that you're not going to make any money on a
8 wager. We don't have that model.

9 MR. HARRIS: So, basically You Bet makes
10 more money on a wager on a Magna track than they do
11 at a wager TVG track?

12 MR. DURY: Well, I mean, yes. We have
13 negotiated an arrangement with You Bet. You Bet does
14 make money, honestly they probably would tell you
15 they don't make as money as they would like, and we
16 would tell you they probably make more than they
17 should, which means there was a good negotiation and
18 we came out somewhere in the middle.

19 MR. HARRIS: I was assuming that You Bet's
20 arrangement with effectively Express Bet was the same
21 as their relationship with TVG.

22 MR. DURY: Not at all. And when I say You
23 Bet makes money when they accept a wager on a Magna
24 track, the same thing applies America Tab, to
25 Philadelphia -- to all the other off track systems

1 that we provide our content to.

2 We believe that the best thing for the
3 racing industry and the fans is to let everybody
4 carry all the content. Let the fans decide and have
5 the most opportunities to wager.

6 MR. SHAPIRO: Why shouldn't we just have
7 one TV signal or whoever wants to put on a show and
8 just let every company though be able to wager. The
9 problem I have is why not -- if it's Hollywood Park
10 or Santa Anita, and one company is closed out from
11 taking a wager, I do not understand why that has to
12 be. If they want the exclusive television because
13 television dictates that, why shouldn't that be
14 allowed? That is the part I just don't follow.

15 MR. DURY: I believe it should be. I agree
16 with your position, but we heard TVG say that they
17 want the exclusive wagering rights. So, that's been
18 their position --

19 MR. SHAPIRO: That wagering rights and
20 television have to go hand-in-hand, and I guess I'm
21 saying why can't they continue to have the exclusive
22 television rights at their exclusive tracks, but the
23 other -- you're the only other television company or
24 HRTV -- why can't Express Bet accept wagers there? I
25 just feel again that we are limiting our breath of

1 exposure to accept wagers.

2 MR. DURY: We, Express Bet, are open to any
3 reasonable solution to this problem. It is clearly a
4 problem. We've all talked about it for an hour now,
5 and I'm not sure exactly what the answer is.

6 We're willing to work with the horsemen,
7 the commission, with TVG, with You Bet, with
8 everybody, to come up with something that makes
9 sense. In fact, we tried very very hard to do that.
10 Thus far it is within up successful.

11 MR. SHAPIRO: Well, thank you. Is there
12 anybody in the audience that needs to address this
13 any further? As we said at the onset we're not going
14 to be able to conclude this. I think this is a very
15 serious matter.

16 I think that we have to look at what's good
17 for the industry as a whole, how we can help our
18 tracks have more revenue, how we can raise our
19 purses. It's foolish to think that we're going to
20 get any kind of slot revenue anytime soon.

21 And if he can enhance our ADW model to
22 improve our purses that will attract more horses,
23 more horsemen would -- get more revenue to the tracks
24 so they'll make improvements and make the facilities
25 more comfortable, I think that's what we're charged

1 to do. So, unless anybody has any other comment, I
2 think that we should move on.

3 And I know this has been long, if there
4 isn't anybody that is here specifically to address
5 Item No. 10, which is the discussion on suggestions
6 to stop and limit illegal gambling if California by
7 offshore entities, I would recommend that we defer
8 that agenda item in the interest of time. Does
9 anybody have any objections to deferring that item?

10 There being none then let's defer that.
11 The next one is report from the Ad Hoc Committee on
12 the progress of establishing procedures for insuring
13 public disclosure and accuracy of jockey weights.

14 I will report, and it's very short that a
15 presentation was made at the RCI Board meeting as we
16 had agreed the Ad Hoc meeting put together a list of
17 the uniform standards that would be put forth and
18 hopefully be adopted nationally.

19 At the meeting in March of this year, those
20 proposed rules and standards are going to be
21 submitted to RCI once we can get buying from them,
22 but I think we would be in the position of adopting
23 new standards which would ensure public exposure
24 disclosure. So, I don't think there is much else to
25 report on that at this time unless anybody has

1 comment on it. There being none, we'll go on to Item
2 No. 12.

3 Item 12 is discussion and action by the
4 Board regarding compliance with a Peremptory Writ of
5 Mandate issued by the Court in California Harness
6 Horsemen's Association versus CHRB. I would first
7 look to our Deputy Attorney General, who quickly made
8 it to the podium and get his comment.

9 MR. PINAL: Thank you, Mr. Chairman. Randy
10 Pinal, Deputy Attorney General. On November 29, 2005
11 CHRB staff received a Peremptory Writ of Mandate
12 issued by the clerk of the Court to the Board
13 directing the Board to nullify and invalidate its May
14 2003 decision regarding impact fees including Capitol
15 Racing, California Harness Horsemen's Association,
16 Los Alamitos Quarter horse Racing Association, and
17 Pacific Coast Quarter horse Racing Association.

18 This meeting is the first regularly
19 scheduled meeting after staff received the Writ for
20 which discussion and action can loftily be taken
21 pursuant to public notice requirements in the Bagley
22 Keen Open Meeting Act.

23 Yesterday, I learned that Los Alamitos filed a
24 notice of appeal on January 13, 2006. In the notice
25 of appeal Los Alamitos challenges the judgment and

1 Writ of Mandate as well as the court's denial of an
2 order to -- of an earlier motion to dismiss filed by
3 this Board, Los Alamitos, and PCQHRA.

4 Under Code of Civil Procedure Section 1094.5
5 subdivision G, if an appeal is taken from -- the
6 agency's decision or order of the state pending the
7 determination of the appeal unless the Appellate
8 Court orders otherwise. Also under Code of Civil
9 Procedure Section 916 subdivision A, the proceedings
10 in the trial court including enforcement of a
11 judgment or order are -- while an appeal is pending
12 unless the trial court or a court of appeal orders
13 otherwise.

14 At this time, we have no information
15 suggesting the court has lifted the automatic stay in
16 order -- the Writ pending appeal. So, unless --
17 until the trial court or a court of appeal directs
18 the Board to enforce the writ, we advise the Board to
19 take no action at this time.

20 MR. SHAPIRO: Thank you. In light of that,
21 I would recommend that the Board follow the deputy
22 attorney general's advice and not take action. Does
23 anybody have a problem with that? Fine.

24 Item No. 13 regarding discussion and action
25 by the Board regarding the moneys Capitol Racing LLC

1 is required by the Business and Profession Code
2 section to share, per written Horsemen's Agreement,
3 with California Harness Horsemen's Association for
4 harness meetings, from 1997 to 2004, and formulation
5 of plan if deadline for distributing the funds.

6 Mr. Pinal?

7 MR. PINAL: Randy Pinal, Deputy Attorney
8 General. I want to clarify what appears to be an
9 oversight in the staff analysis on this particular
10 agenda item. It was most likely an unintentional
11 oversight because as the Board knows sometimes these
12 issues can be complicated and complex. So, I just
13 wanted to Clarify the staff analysis says, and I
14 quote, "The horse racing law indicates that this
15 source of funds should be split 50-50 with the
16 horsemen pursuant to a written agreement."

17 Just to clarify, the horse racing law
18 specifically section 19605.7 subdivision C states
19 that .5 percent of the total amount handled by each
20 satellite and wagering facility shall be distributed
21 according to a written agreement for each race
22 meeting between the licensed racing association and
23 the organization representing the horseman in that
24 particular meeting.

25 In June of 2005, the Board held the

1 language in the horsemen's agreement section 13B,
2 between CHHA and Capitol Racing for the periods of
3 1997 through 2004 required Capitol to split the
4 promotion fund money 50-50 with the horsemen. I just
5 wanted to make sure that the record was clear in that
6 respect.

7 MR. SHAPIRO: Thank you.

8 MR. PINAL: It has also come to my
9 attention since the last Board meeting, a new round
10 the litigation has commenced between Capitol Racing
11 and CHHA and other entities that includes resolution
12 of the promotion fund issue. The attorneys for both
13 Capitol and CHHA are here today. And perhaps the
14 Board could have them confirm that the litigation
15 that encompasses the promotion fund issues that are
16 currently before the court. Based on these new facts
17 and to avoid duplicate and parallel proceeds before
18 this Board and the trial court, we recommend that the
19 Board not take any further action on the promotion
20 fund issue reference agenda item 13 until the courts
21 have resolved this matter and that includes
22 exhaustion of all party's Appellate remedies.

23 MR. SHAPIRO: Thank you. I would like to
24 just confirm that. Is there any legal counsel here
25 and CHHA or from Capitol? Can one or the other

1 please confirm whether or not this matter is in fact
2 subject to litigation.

3 MR. MANDEL: Jerry Mandel on behalf of the
4 California Harness Horsemen's Association. Good
5 afternoon everybody. I suspect as most things that
6 involve these disputes, it's not quite that clear.
7 The status of things is as follows. I think that
8 Mr. Pinal would agree that previously in response to
9 the Board's ruling that Capitol Racing is required to
10 disburse the promotional fund that Capitol Racing
11 initiated a Mandamus action, yet another lawsuit in
12 Sacramento.

13 It is my understanding as well as
14 Mr. Pinal's I think, I can only speak for myself,
15 that action has not been prosecuted for some reason,
16 nor has there ever been a stay of this Board's
17 previous decision. This Board hasn't issued a stay
18 order. The Court hasn't been asked to nor has issued
19 a stay order. The this lawsuit simply was filed
20 since then.

21 To clarify what Mr. Pinal just said, you
22 may or may not be aware that recently Capitol Racing
23 filed yet another lawsuit against Los Alamitos race
24 course, Scott Wink, Sacramento Harness Association,
25 and CHHA. That lawsuit deals with 612 money issues

1 that you're familiar with having to do with the
2 impact fee negotiations, disgorgement issues, unjust
3 enrichment issues and the like.

4 In response to that lawsuit that was
5 recently filed and served on December 16th, and when
6 I say served, it was served on CHHA and Los Alamitos,
7 CHHA responded by filing a cross-complaint against
8 Capitol Racing. In that cross-complaint there are a
9 number of issues that are raised, which the Board is
10 well aware of.

11 One of those issues that has been raised is
12 to seek compliance with this Board's prior ruling in
13 connection with the promotional fund issue. That is
14 to say we have said we would like the court to
15 enforce that ruling by the issuance of a formal
16 judgment for the million and a half plus interest,
17 or alternatively for some reason has Capitol Racing
18 has urged in its other lawsuit that the promotional
19 fund decision by this Board is not valid for some
20 reason, that you did not have authority for some
21 reason, that the court should then determine that
22 issue.

23 MR. SHAPIRO: So, if I can interrupt you, I
24 think that was a long yes.

25 MR. MANDEL: It is a long yes, except that

1 one of the things that CHHA is doing is relying on
2 your previous decision. That's why I'm trying to be
3 clear.

4 MR. SHAPIRO: I understand, but at the very
5 end in the event you don't -- there is something
6 faulty with the actions we've taken, you've
7 nevertheless asked the court to in its own right find
8 that the court would find --

9 MR. MANDEL: It's a delicate balance only
10 in the context that Capitol Racing's is that the
11 Board does not have the power to do what it did. We
12 say you did.

13 MR. SHAPIRO: I appreciate that. I don't
14 know if there is any chance that the parties here are
15 ever going to wake up and realize that they ought to
16 get in a room and try to work some of this stuff out.
17 I don't know how anybody can afford all these
18 attorneys fees. It's not for me to worry about, but
19 this is ludicrous.

20 Having said that, in light of the new
21 lawsuits, the old lawsuits, the lawsuits still to be
22 filed, and I would recommend to the Board that we
23 take no action at this time. I don't want to deny --

24 MR. CHEIT: I am David Cheit. I'm with the
25 same firm as Mike Green. David Cheit, Stevens and

1 O'Connel for Capitol Racing. I'll sit down with
2 Mr. Mandel just as soon as I get this ADW thing
3 straightened out.

4 MR. SHAPIRO: Well, when you do, and you
5 must be highly skilled. If you could give us all the
6 memorandum on it, we would appreciate it.

7 MR. CHEIT: This is on the record. I
8 better stop short of promising a solution. I think
9 the issues of whether the Board has jurisdiction to
10 take action on this are properly before the courts.
11 I think the courts are the right place to do it. If
12 Mr. Pinal recommends that the Board take no further
13 action, we would certainly favor that, because we
14 think this -- where it belongs.

15 MR. SHAPIRO: Okay. Thank you. Before you
16 go away, is there any chance that you could get your
17 client to sit with them and try to work through some
18 of these issues? I know you guys are putting kids
19 through college on this. But is there any chance
20 that you could sit down --

21 MR. CHEIT: Only one kid.

22 MR. SHAPIRO: Fine. We're not getting our
23 kids through college hearing this. Is there any
24 chance that you could try to work some of this out?
25 I mean, this is just on going, on going, and I really

1 ask that you go back to your clients and see if they
2 won't try to find some sanity and resolve some of
3 this.

4 MR. CHEIT: There's always hope. There's
5 always a chance. We have proposed that all parties
6 to all disputes sit down and mediate --

7 MR. SHAPIRO: Well, they suggested, and
8 with due respect to that, I believe an offer to put
9 forth to binding arbitration or if some form of
10 mediation was put forth to your client by his client,
11 CHHA, he has a lot of clients. And I would really
12 suggest that if there is any way to do it, that that
13 be used, because frankly we have other issues that
14 are important to this industry and we're spending too
15 much time dealing with the fight. So, that is my two
16 cents.

17 MR. CHEIT: I appreciate that, and I do
18 have the same hope as well.

19 MR. SHAPIRO: Please ask your client. In
20 light of that, I recommend that the Board take no
21 actions on the matter at this time. Does anybody
22 have a problem with that? There not being any we are
23 going to hopefully get through this.

24 General business. Is there anything that
25 needs to come up under general business?

1 MR. JENSON: Dr. Ron Jenson, working on the
2 CHRB microchip program. I just wanted to give the
3 Board a brief update on the activities that -- this
4 discussion concerning the microchip program for the
5 CHRB began last summer.

6 And it began based on the fact that the
7 United States Department of Agriculture had mandated
8 that all livestock including the horses be able to be
9 electronically identified by somewhere around 2009,
10 and also by the fact that the racing industry has
11 long wanted some method of determining and keeping
12 better track of the comings and goings, the ins and
13 outs of horses coming and going into the racetrack.

14 We were made aware that the USDA is going
15 to make project money available for these activities.
16 The long and short of it is we applied for about a
17 \$200,000 grant to implant about 4000 horses in
18 southern California and develop a tracking mechanism
19 between five locations where horses are stabled when
20 they're racing in southern California.

21 We were awarded about \$97,500, which is
22 approximately half of those fees that are necessary
23 for this study. I learned just this morning that
24 various racing entities have gotten together with
25 Scott Wink, I believe, and have agreed to provide

1 another \$97,500 for this project.

2 MR. SHAPIRO: Well, that's wonderful.

3 MR. JENSON: Yeah, that is pretty good
4 news. I brought them as well, unless I do not want
5 to leave out anybody who worked on that, but it was
6 certainly an appreciated effort.

7 The inner agency agreement is about to
8 be -- is ready for signature. You have to appreciate
9 that the funds are made available -- I mean the grant
10 fund is made available by the USDA. It's
11 administered by the CDFA, California Department of
12 Food and Agriculture, it's going to be spent by the
13 CHRB.

14 So, it's been a long process, but that
15 inter ADC cooperating is ready for signature. The
16 database that is being developed by the Encompass
17 Solutions, which is a subsidiary of the Jockey Club
18 Information Systems, has the database nearly complete
19 and is up for testing.

20 So, the next step I think we'll begin with
21 the premises I.D., the tracks that were involved, the
22 locations that are involved in this final project
23 study as well as all the race tracks and --
24 definitely have to have a premise I.D.

25 It is a fairly simple project and a fairly

1 simple procedure, and we'll get started on doing
2 that. Then after we get the personnel in place to
3 identify the horses to implant the horses and
4 basically get started.

5 I would like to emphasize this as a pilot
6 project. The use of the microchips for
7 identification has been utilized in several
8 countries. However, the tracking process is new, so
9 this is indeed a pilot project. There will some
10 changes that will have to be made as we go and that
11 we will learn as we go.

12 I think there has been sort of a business
13 plan, if you will, which is not the right term, but I
14 believe that the draft of the interagency agreement
15 that has been circulated to the Board members, which
16 basically outlines the procedures that we propose to
17 go through on this project.

18 Somewhere down the road, the Board will
19 have to determine whether this will be a mandatory
20 thing. I think it should all be based on the results
21 of this pilot project. But something to keep in
22 mind, and I know that we've had discussion about it.
23 Probably at some point in time there will be a
24 mandatory thing amended by the Board.

25 The final thing I would like to tell you is

1 that is recently there was a good article in the
2 Thoroughbred Times on Microchips, which explains some
3 of the use and some of the evolving uses that might
4 be associated with microchipping of livestock in
5 particular horses. It's in the Thoroughbred Times a
6 couple days ago, January 17th. Thank you.

7 MR. SHAPIRO: Thank you, Dr. Jenson. And I
8 think it is terrific that we are going to get this
9 pilot project off the ground. I do think that now it
10 is new news, at least to me, that there is some
11 matching funds to help get the program set. And I
12 think that we should see a complete business plan for
13 lack of other.

14 And as you know, we are moving to try to
15 replace you which will be hard to do as a Medical
16 Director. But I think that in that process we should
17 involve also the new employment director to oversee
18 this and work to get this program moving. And so, I
19 just want to thank you for your work, and thank you
20 on this.

21 MR. HARRIS: Go ahead.

22 MR. CASTRO: My name Richard Castro, I
23 represent Pari-Mutuel Employees Guild Local 280.
24 Going back to the Internet discussions I just want to
25 say -- the ADW stuff?

1 MR. SHAPIRO: Yes.

2 MR. CASTRO: I just want to say that I
3 found those presentations very educational, very
4 informative, and I want to thank my friends in the
5 racing industry for the presentation that they put
6 on.

7 The only thing I want to leave you with is
8 I want to make sure that in your efforts to solve
9 these problems that we get included in the process
10 rather than excluded. That is all. I'm being nice.
11 Black Mold.

12 MR. SHAPIRO: Mr. Castro, don't Black Mold
13 me.

14 MR. CASTRO: I'm going to Black Mold you.

15 MR. SHAPIRO: No, you will be included.
16 You should be included. We all are well aware of
17 your position.

18 MR. CASTRO: You know, I got pretty hot.
19 I'm going to take my jacket off.

20 MR. SHAPIRO: Does anybody else have
21 anything --

22 MR. CASTRO: Black mold. I do have
23 something on Black Mold.

24 MR. SHAPIRO: No, relax.

25 MR. CASTRO: No, no. It's a good one.

1 Your gentleman here, Ken Labey, I believe his name
2 is. We've had a talk, and he's agree to include us
3 in the process in the future. And for that, I want
4 to say thank you to the CHRB staff and commissioner.
5 God Bless You.

6 MR. SHAPIRO: Thank you. And have a nice
7 Christmas, Santa.

8 MR. JAMGOTCHIAN: Commissioner, Jerry
9 Jamgotchian.

10 MR. SHAPIRO: Before you start, I'm going
11 to ask that -- we will listen to whatever it is you
12 choose to speak on so long as it does not involve any
13 matter where a complaint or any litigation or
14 investigation is taking place. We are not allowed to
15 hear that, okay.

16 So, if you want to address us on some
17 general subject that is not part of any specific
18 subject which is currently being dealt with by this
19 Board or any part of this Board, that is what we can
20 hear.

21 If what you're hear to address us about is
22 something that is part of an investigation,
23 litigation, or complaint we are barred from listening
24 to it.

25 MR. JAMGOTCHIAN: You don't hear complaints

1 from people with regards to Board matters; is that
2 what you're telling me?

3 MR. SHAPIRO: We -- understand something.
4 You have timed actions, which bar us from hearing
5 them.

6 MR. JAMGOTCHIAN: The actions are against
7 the CHRB.

8 MR. SHAPIRO: I will turn to our Deputy
9 Attorney General, who we have to rely on. I simply
10 want to make sure that we are not --

11 MR. JAMGOTCHIAN: I accept that. The CHRB
12 has not been sued by me at all.

13 MR. SHAPIRO: I believe -- Mr. Knight, if
14 you would please advise us, I'm aware that there is a
15 lawsuit that is pending against one of the people
16 that we license. And there is various communication.
17 There are allegations being made against some of our
18 staff with respect to production of documents. I
19 don't want to go into an area that would be improper.

20 MR. KNIGHT: Mr. Jamgotchian is represented
21 by counsel -- the defendant in a lawsuit -- is being
22 sued. He's represented by our office, by the
23 Attorney General's office.

24 And my advice to you would be that you not
25 have any discussions with Mr. Jamgotchian about any

1 of this relating -- anything to do with the complaint
2 he's made, a complaint about one of your stewards,
3 which is a potential disciplinary issue, which could
4 come before this Board.

5 And you have a lawsuit pending against one
6 of your agents, and you should not be in
7 communication with him. You're both represented by
8 counsel. If the counsel has some discussion, they
9 should have it with each other. The client should
10 not be out in front of his Board trying to push some
11 point that he may have that really pertains to his
12 complaint against Mr. Slender.

13 MR. JAMGOTCHIAN: I'm not pushing anything
14 with regards to Mr. Slender. I'm hear to address the
15 Board on some concerns that I have. And that's
16 specifically what it's about. Plus, I have an answer
17 for you on your ADW procedures.

18 Let me give this to you, and then I'll
19 provide you --

20 MR. KNIGHT: If this has to do with your
21 lawsuit or complaints give that to your attorney and
22 ask him to give that to the attorney that's
23 representing Mr. Slender.

24 MR. JAMGOTCHIAN: You can wish to review it
25 or not, I have the opportunity here, and I will

1 explain to you --

2 MR. SHAPIRO: No, you don't have the
3 opportunity. That's what we're trying to tell you.

4 MR. JAMGOTCHIAN: I have the opportunity to
5 address the Board. I'm not asking to say anything --

6 MR. SHAPIRO: We can cannot hear it.

7 MR. JAMGOTCHIAN: You don't even know what
8 I'm addressing.

9 MR. SHAPIRO: Just give us the assurance it
10 has nothing to do with any of the matters that we've
11 been referring to.

12 MR. JAMGOTCHIAN: It has nothing to do with
13 my litigation with Mr. Slender.

14 MR. SHAPIRO: Okay. And any matters --

15 MR. JAMGOTCHIAN: Well, what matters are
16 you talking about? Let me make my presentation, if
17 you feel there's something off balance, you can
18 address it. The first question I have is of horse
19 owners why I'm here.

20 I'll give you the answer to the ADW
21 question. This whole matter has been gone through
22 many, many times with regards to exclusive contracts
23 for revenue collection. Waste management has
24 exclusive contracts throughout many cities in the
25 United States.

1 Interestingly enough, the cities now,
2 Beverly Hills is a classic example, doesn't have
3 exclusive contracts anymore. What they have now are
4 franchises. Now, when the racing board -- I'm was
5 interested in listening, but was there ever a right
6 to anybody like TVG in giving them the right to
7 assign their rights to the rights that they have?

8 I mean, you allow people to sublease their
9 rights. Is that something that is authorized under
10 the agreements? It seems to me that if -- in this
11 particular case the trash franchisee, I can't
12 franchise my trash service in the City of Beverly
13 Hills. I have to do it myself.

14 By allowing TVG to franchise, or
15 sublicense, or create agreements to generate money,
16 the people that have misstepped here are the people
17 that made the contact.

18 So, if somebody in this agency could look
19 at a trash company model, they'd see that the
20 industry now is not exclusive. It is directly a
21 franchisee or sublease payments directly to the
22 entity that has, in this particular case, the trash.
23 So, maybe your staff could consider that.

24 MR. SHAPIRO: Thank you.

25 MR. JAMGOTCHIAN: And allowing them to sign

1 their rights it ridiculous. And speaking about
2 ridiculous, speaking as a horse owner now. I have a
3 hundred race horses. This is a very serious business
4 to me. What occurred to me at Del Mar race track,
5 you've all become aware of, you've read the lawsuit.

6 My basis here is integrity of the racing
7 Board and the people that administrate the rules.
8 Now, we have circumstances going on currently where
9 I've made public records requests as a citizen can do
10 to govern an agency.

11 The people that are providing the documents
12 are not providing the documents they have. They're
13 withholding the documents interestingly enough. Now,
14 as that package contains there is clear evidence that
15 we have a signed declaration by a former associate
16 steward who said that she sent six email
17 communications to Ms. Fermin. Ms. Fermin's office,
18 Ms. Rose, Ms. Ross rather, has said no such
19 communications exist.

20 MR. SHAPIRO: Okay.

21 MR. JAMGOTCHIAN: This has nothing to do
22 with the lawsuit.

23 MR. SHAPIRO: MR. Jamgotchian, it does.

24 MR. JAMGOTCHIAN: It does?

25 MR. SHAPIRO: I've read -- please

1 understand

2 MR. JAMGOTCHIAN: -- Public Records Act.

3 MR. SHAPIRO: I understand. Okay.

4 MR. KNIGHT: It's clearly related.

5 MR. SHAPIRO: It is related to the case.

6 You are asking for this information related to your
7 case. We cannot hear it, okay? I suggest --

8 MR. JAMGOTCHIAN: Let me ask a general
9 question.

10 MR. SHAPIRO: Let me finish. Have your
11 attorney contact our attorney. That is the proper
12 course of communication.

13 MR. JAMGOTCHIAN: The first issue I --

14 MR. SHAPIRO: Please have him do that, and
15 then you will get a response.

16 MR. JAMGOTCHIAN: Don't worry. There will
17 be discovery propounded with regards to that. I'm
18 asking you as the Board, does the Board respect the
19 Public Records Act? Simple question, does it wish to
20 follow the Public Records Act?

21 Does it wish to designate its employees and
22 request its employees to follow the Public Records
23 Act? That's the question. If it doesn't, then that's
24 fine.

25 MR. SHAPIRO: But the Board at all times

1 wants to adhere to all of the regulations and the
2 acts that we are governed by.

3 Now, having said that, with respect to what
4 you're dealing with, it is related to your lawsuit.
5 I appreciate that you have invested so much money in
6 horse racing, and I appreciate all that. I'm simply
7 asking you to please have your attorney deal with our
8 attorney so that we can properly adjudicate or deal
9 with the issues at hand. You are going about it
10 wrong.

11 MR. JAMGOTCHIAN: Mr. Knight just totally
12 spoke in something that we aren't even aware of. Up
13 until this morning at 10:00, nobody from the State
14 had contacted by attorney with regards to Mr. Slender
15 at all.

16 So, if the State is going to pick up
17 representation for Mr. Slender, that's wonderful.
18 We'd like to communicate with the State. The State
19 has not addressed a defense from Mr. Slender.

20 MR. SHAPIRO: Again, please have your
21 attorney contact Mr. Knight. Can we just leave it at
22 that?

23 MR. JAMGOTCHIAN: We will as soon as
24 Mr. Knight advises us that he's representing
25 Mr. Slender.

1 MR. SHAPIRO: I suggest that your attorney
2 contact Mr. Knight, and he can find out what
3 Mr. Knight's staff says, who he represents, who he
4 doesn't, what all the facts are. Please address this
5 to Mr. Knight.

6 MR. JAMGOTCHIAN: We'll wait to see who
7 answers the Complaint.

8 MR. SHAPIRO: Is there anything else?

9 MR. JAMGOTCHIAN: Yes, there is with
10 regards to another issue that I sent. It's in the
11 document clipped. I requested a copy of the rules,
12 which the condition --

13 MR. KNIGHT: This all relates to his
14 lawsuit.

15 MR. JAMGOTCHIAN: The rules of racing --

16 MR. SHAPIRO: Okay. Mr. Jamgotchian --

17 MR. JAMGOTCHIAN: -- racing office --

18 MR. SHAPIRO: Do you need a set of rules?

19 MR. JAMGOTCHIAN: Yes, I would like a set
20 of rules.

21 MR. SHAPIRO: Okay. You give me a business
22 card or address, and I will make sure that somebody
23 from our office sends you a set of rules you need.
24 Is there anything --

25 MR. JAMGOTCHIAN: Ms. Fermin told me

1 there's no rules. There haven't been for two years.

2 MR. HARRIS: The issue is, the rules are on
3 our website. I think the actual book of rules may
4 not have been published, but it's all there.

5 MS. FERMIN: It hasn't been for, I believe,
6 two years. The updated rules are on the website with
7 all changes and amendments.

8 MR. HARRIS: So, everything is available to
9 the public.

10 MR. KNIGHT: Again, this is a matter -- a
11 formal matter that's pending. There is going to be
12 formal response to his request. This is not
13 something that should be taken down here. It's not
14 on your agenda.

15 MR. JAMGOTCHIAN: First off, with regards
16 to --

17 MR. SHAPIRO: Unless there is anything
18 totally unrelated to this --

19 MR. JAMGOTCHIAN: Yes, there is with
20 regards to the rules. How do the trainers know what
21 the rules are if there are no rule books available at
22 the CHRB office? It says in the condition book that
23 there -- is this current? Thank you. I appreciate
24 that.

25 MR. SHAPIRO: Thank you.

1 MR. JAMGOTCHIAN: That's good. That's all
2 I ask.

3 MR. SHAPIRO: Right. Thank you very much.

4 MR. JAMGOTCHIAN: One other issue. With
5 regards to more investigation. Is there a case
6 that's open?

7 MR. SHAPIRO: Okay. Excuse me. I don't
8 know -- if the more investigation has anything to do
9 related to anything that you have a claim against us
10 or an agent of us, if that's what you're referring
11 to, I suggest your counsel please contact our
12 counsel. It's the proper method of communication.

13 Mr. Jamgotchian, I really hate being heavy
14 handed with you.

15 MR. JAMGOTCHIAN: No, it's fine.

16 MR. SHAPIRO: It's not fine. You are an
17 owner. You deserve to be respected. But you are
18 putting us in the -- position. Please don't do that.
19 Okay.

20 You deserve every day in court that you
21 want. I have no problem with your pursuing anything.
22 Do as you feel is in your best interest.

23 MR. JAMGOTCHIAN: I have done that.

24 MR. SHAPIRO: Stay an active participant in
25 California racing. But please understand, the

1 position that we're in, we're forced to take this
2 position. So, please stop and have your counsel
3 contact our attorney.

4 MR. JAMGOTCHIAN: But you aren't forced to
5 have your employees violate the Public Records Act.

6 MR. SHAPIRO: I'm going to adjourn the
7 meeting now. If there is not anything else that
8 needs to come before the Board?

9 MR. JAMGOTCHIAN: Thank you.

10 Mr. SHAPIRO: There being none, I adjourn
11 the meeting. Thank you.

12 (Meeting concluded at 2:30 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25

1 REPORTER'S CERTIFICATE

2

3 STATE OF CALIFORNIA)
) SS.

4 COUNTY OF LOS ANGELES)

5

6 I Blake E. Washington, a certified shorthand
7 reporter within and for the State of California,
8 hereby certify:

9 That the said Regular Board Meeting, taken down
10 by me in stenotype at the time and place therein
11 stated, was thereafter reduced to typewriting by
12 computer-aided transcription under my direction, and
13 is an accurate transcription of the oral proceedings
14 in this matter, to the best of my ability.

15 I further certify that I am not in any way
16 interested in the event of this action and that I am
17 not related to any of the parties thereto.

18 Dated this 23rd day of January, 2006.

19

20

21 Blake E. Washington, CSR No. 13027

22

23

24

25

PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345